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THE UNIVERSITY OF HONG KONG

**A STUDY ON THE EFFECTIVENESS OF DEVELOPMENT CONTROL
THROUGH PLANNING CONDITIONS IN PLANNING DECISIONS:
RESIDENTIAL AND RESIDENTIAL-COMMERCIAL MIXED
DEVELOPMENT IN COMPREHENSIVE DEVELOPMENT AREA ZONE**

A DISSERTATION SUBMITTED
TO THE FACULTY OF ARCHITECTURE
IN CANDIDACY FOR THE DEGREE OF
BACHELOR OF SCIENCE IN SURVEYING

DEPARTMENT OF REAL ESTATE AND CONSTRUCTION

BY

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HONG KONG

APRIL 2008

DECLARATION

I declare that this dissertation represents my own work, except where due acknowledgement is made, and that it has not been previously included in a thesis dissertation or report submitted to this University or to any other institution for a degree, diploma or other qualification.

Signed : _____

Name : _____

Date : _____

ABSTRACT

Developments on Comprehensive Development Area are often permitted with planning conditions during planning decisions, in order to ensure that they are developed in a comprehensive manner with positive impact to the surrounding environment. Development control through planning conditions is an innovative and useful means provided that the mechanism is effective, i.e. planning conditions are complied with, non-compliance is detected and enforcement actions are efficiently taken.

This dissertation aims at giving a clearer picture on the effectiveness of development control through planning conditions by studying 18 development projects in Hong Kong. It is done by inspecting the Master Layout Plans at the Lands Registry, examining whether planning conditions are stipulated into their relevant leases, and investigating whether planning conditions are factually complied with by developers. The findings showed that developers have submitted the relevant Master Layout Plans for approval but not all of them were deposited at the Land Registry by the Town Planning Board; not all planning conditions were stipulated in the lease which acts as a mean of enforcement; and developers have performed well in factually complying with the planning conditions.

Although developers are willing to comply with planning conditions, detection of non-compliance and enforcement of planning conditions are not actively and efficiently carried out, mainly due to a lack of provision in the Town Planning Ordinance to govern compliance and enforcement of planning conditions, the absence

of direct enforcement mechanism, a lack of resources, and probably the negligence of government officers. In view of the situation, some suggestions are discussed at the end.

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LIST OF ABBREVIATIONS

BA	Building Authority
CC	Certificate of Compliance
CDA	Comprehensive Development Area
DPA	Development Permission Area
IDPA	Interim Development Permission Area
MLP	Master Layout Plan
OZP	Outline Zoning Plan
LA	Land Authority
LR	Land Registry
TPB	Town Planning Board

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CHAPTER 1

INTRODUCTION

BACKGROUND

Town planning is important for a society, especially for Hong Kong, a congested city with little land supply but with a high population. It seeks to promote the right development in the right place and at the right time, so as to bring about a better organized, more efficient and more pleasant place in which to live and work¹. The purposes of town planning are to promote the best possible social and economic developments for the environment, health, safety, convenience and general welfare of the community through the allocation of land and various uses in the best interest of the community².

Planning is a comprehensive process which is done in terms of development control by mainly three ways – by *Town Planning Ordinance*, *Buildings Ordinance* and government leases (sometimes simply called ‘leases’). The mechanisms working inside these three limbs of development controls sometimes overlap and supplement each other in order to effectively control developments/redevelopments in Hong Kong. Their effectiveness can be one of the indications of whether the purpose of planning is reached. However, they may not be as effective as what they aim to be.

¹ Hong Kong Government (1991), *Comprehensive Review of the Town Planning Ordinance: Consultative Document*, Planning, Environment and Lands Branch, Government Secretariat, Hong Kong.

² Hong Kong Government (1988), *Town Planning in Hong Kong*, Town Planning Office, Govt. Printer, Hong Kong.

Planning conditions which are imposed by the Town Planning Board (TPB) empowered by the *Town Planning Ordinance* during planning decisions, act as an innovative means to development control. Although they are imposed by the TPB, they can be enforced through government leases and *Buildings Ordinance* as well. This is a good example of supplementation of the three ways of development control. However, development control through planning conditions may not be as effective as expected. Its effectiveness depends on whether planning conditions are complied with, whether non-compliance is detected and whether enforcement is efficient. These can be implied by: (1) whether developers submit MLPs to TPB and whether the TPB deposit MLPs at the Land Registry (LR); (2) whether the Lands Department stipulates the planning conditions in a government lease in order to enforce them; and (3) whether developers factually comply with the planning conditions in the developments.

Professional interests in development control through planning conditions have been aroused in recent years. Yeung (2003) described various categories of planning conditions and studied the cost implications of planning conditions for developers; Lai, Ho and Leung (2005) evaluated the importance and situation of compliance of planning conditions in Hong Kong. Yau (2007) is a follow-up to the work of Lai, Ho and Leung (2005) and it pointed out many cases of non-compliance of physical planning conditions and lack of deposition of MLPs at the LR. Lai *et al.* (2007) found that there were 10 completed developments which have not fully complied with all planning conditions at the time of their investigation and some of the planning conditions have not been stipulated in the relevant government leases. Moreover, Jowell and Millichap (1983) identified that detection of non-compliance with

planning conditions or lease conditions by government authorities is usually ‘reactive’ rather than ‘proactive’³, probably as a result of lack of resources. Planning conditions, therefore, generally cannot be enforced properly. All these together point to a loophole in the mechanism of development control through planning conditions in practice. This lowered its effectiveness, and thus the usefulness of this measure, which further leads to a waste of resources in the society (Lai *et al.*, 2007).

This dissertation is a further study from the above works. This dissertation does not only examine the compliance of physical planning conditions and deposition of MLPs at the LR, but also investigates whether planning conditions are stipulated in government leases or not. It aims to examine the effectiveness of development control through planning conditions.

OBJECTIVES

The main objective of the dissertation is to study the effectiveness of development control by imposing planning conditions in planning decisions of s.16 application and s.17(1) review.

The extended objectives of the dissertation include:

1. to investigate whether planning conditions are complied with;
2. to look at whether non-compliance is detected by government authorities;
- and
3. to analyse whether enforcement is efficient.

³ Information about breaches of planning control was not normally actively sought by authorities, but brought their attention by complaints, usually from the public.

METHODOLOGY

The objectives are achieved by studying in detail 18 development projects of residential or mixed commercial-residential use in Comprehensive Development Area (CDA) zoning, which involves the following processes:

1. Land search, inspection of government leases and lease modification letters at the LR: to look into the relevant government leases to find out whether the planning conditions are incorporated in the conditions in the government lease.

2. Inspection of MLPs at the LR and TPB office: to find out whether the relevant MLPs are submitted by developers and deposited by the TPB for public inspection.

3. Site investigation and field survey: to find out whether the planning conditions are factually complied with by developers.

STRUCTURE OF THE DISSERTATION

To achieve the above objectives, this dissertation is divided into six chapters: Chapter 1 introduces the idea of this research topic and the objectives of this dissertation; Chapter 2 evaluates different systems of development control in Hong Kong; Chapter 3 reviews the mechanism of development control through planning conditions; Chapter 4 interprets the findings from the studied cases; Chapter 5 discusses the implications of the findings and make suggestions; and Chapter 6 concludes this dissertation.

CHAPTER 2

DEVELOPMENT CONTROL IN HONG KONG

The subject of planning conditions is greatly related to development controls in Hong Kong. Therefore, it is important to look at the background about development controls in Hong Kong which is done by two means, namely statutory controls and non-statutory control. Statutory controls are undertaken by various government departments or authorities such as the Planning Department, the TPB (under the Planning Department) and the Buildings Department under various ordinances such as the *Town Planning Ordinance* and the *Buildings Ordinance*. Non-statutory control is mainly undertaken by the Lands Department through conditions in government leases and lease modification. For the purpose of this study, development control by *Town Planning Ordinance*, *Buildings Ordinance* and government leases are examined.

DEVELOPMENT CONTROL BY TOWN PLANNING ORDINANCE

The *Town Planning Ordinance* was enacted in 1939 and substantially amended in 1991. It provides a statutory control over developments in Hong Kong.

The Aim of Town Planning Ordinance

The *Town Planning Ordinance* aims to promote the health, safety, convenience and general welfare of the community by making provision for the systematic preparation and approval of plans for the lay-out of areas of Hong Kong as well as for the types of building suitable for erection therein and for the preparation and approval

of plans for areas within which permission is required for development.⁴

Statutory Plans

Under the *Town Planning Ordinance*, the TPB is appointed to produce statutory plans such as the Outline Zoning Plans (OZPs), the Development Permission Area (DPA) Plans and the Interim Development Permission Area (IDPA) Plans⁵.

‘The OZPs show the proposed land uses and major road systems of individual schemes areas. Areas covered by such plans are zoned for such uses as residential, commercial, industrial, open space, government, institution and community uses, conservation areas, comprehensive development areas, village type development, open storage or other specified purposes. Attached to each OZP is a Schedule of Notes setting out the uses which are always permitted (Column 1 uses) in a particular zone and other uses for which the TPB’s permission must be sought (Column 2 uses).

DPA plans have been prepared since the enactment of the *Town Planning (Amendment) Ordinance* 1991 mainly for the non-urban area. They also indicate land use zones and are accompanied by a set of Notes which specify the uses which are always permitted and those which require TPB’s permission.... DPA plans are interim plans. They are effective for three years from the date of first publication and will be replaced by OZPs within the period. The provisions for enforcement will however continue to be applicable in the areas after the DPA plans are replaced by OZPs.’

⁴ Long Title, *Town Planning Ordinance*.

⁵ Hong Kong Government (1995), *Town Planning in Hong Kong: A quick reference*, Planning Department, Hong Kong.

Planning Permission

There is no need for obtaining planning permissions when a proposed use is (1) an existing use; (2) a use always permitted in all zones; (3) a temporary use that involves no building work; or (4) a Column 1 use. However, there is a need for obtaining planning permissions when a proposed use is (1) an existing use that has been ceases to exist; or (2) has been discontinued, or a Column 2 use (Lai, Ho and Leung, 2004).

Planning Application, Review and Appeal

To obtain planning permissions, an application under Section 16 of the *Town Planning Ordinance* ('s.16 application' or 'planning application') can be made. In considering a planning application, the TPB would usually take into account such factors as the planning intention and Government policies, social, economic and environmental impacts of the development on the wider area, traffic and infrastructural implications, and compatibility of land uses. Where the development proposals would demonstrate an improvement to the existing environment or would bring about planning gains (that is, the provision of government/institution/community facilities or public facilities) to the neighbourhood or the community at large, favourable consideration may be given by the TPB to such planning applications. The TPB can approve with or without conditions (planning conditions), or refuse⁶.

⁶ Hong Kong Government (1995), *Town Planning in Hong Kong: A quick reference*, Planning Department, Hong Kong.

If it is refused, the applicant can then apply for a review ('s.17(1) review') under Section 17 of the *Town Planning Ordinance*. Similarly, the TPB can approve with or without conditions (planning conditions), or refuse. Besides, 'the applicant who is aggrieved by a decision of the Board on a review under section 17 may appeal'⁷ (planning appeal). The Appeal board may dismiss or allow the appeal with or without conditions (planning conditions). It is also possible that the applicant or the TPB may apply for judicial review if they are not satisfied with the decision.

DEVELOPMENT CONTROL BY BUILDINGS ORDINANCE

The *Buildings Ordinance* also provides a statutory control over developments in Hong Kong.

The Aim of Buildings Ordinance

The *Buildings Ordinance* aims to provide for the planning, design and construction of buildings and associated works; to make provision for the rendering safe of dangerous buildings and land; and to make provision for matters connected therewith⁸.

Approval of Building Plan

In the *Buildings Ordinance*, the *Building (Planning) Regulations*⁹ prescribed the development parameters like the percentage site coverage and plot ratios. More

⁷ Section.17B(1), *Town Planning Ordinance*.

⁸ Long Title, *Buildings Ordinance*.

⁹ Chapter 123F, Laws of Hong Kong.

importantly, s.16(1)(d) of the *Buildings Ordinances* stated that:

‘The Building Authority (BA) may refuse to give his approval of any plans of building works where the carrying out of the building works shown thereon would contravene any approved or draft plan prepared under the *Town Planning Ordinance*.’

Therefore, under the *Buildings Ordinance*, development control is achieved mainly through the rejection of building plans which contravene the provisions of a statutory plan¹⁰. No private building works can lawfully commence without building approval (Leung and Tang, 1998).

DEVELOPMENT CONTROL BY GOVERNMENT LEASE

Besides statutory development control like the *Town Planning Ordinance* and the *Buildings Ordinance*, government leases are used for development control. Apart from one freehold lot, all land in Hong Kong is leasehold where the Government is the landlord or the lessor. The leasehold system which was adopted in Hong Kong since 1842 had been providing a measure of control on development and use of land long before the enactment of the *Town Planning Ordinance*.

Lease Conditions

A government lease usually consists of general conditions and special conditions.

¹⁰ Hong Kong Government (1995), *Town Planning in Hong Kong: A quick reference*, Planning Department, Hong Kong.

Traditionally the government has used covenants in government leases to achieve planning goals. Classical of these covenants include 'rate and range' clauses, user clauses and user restriction clauses (Leung, 2006).

The government is able to stipulate all its requirements considered appropriate on a lessee through the lease conditions. Requirements related to building covenants, use of land and development conditions, etc. are specified in special conditions. They mainly include user, design and disposition, development intensity such as building height, site coverage, plot ratio, number of storeys, and any other development restrictions such as non-building areas, parking and loading/unloading requirements, environmental protection requirements and sometimes the provision of government/institution/community facilities (Fung, 1988).

Moreover, there are conditions in the government lease require compliance with the *Buildings Ordinance* and the *Town Planning Ordinance*.

In the past, legal title was transferred by the grant of Crown lease in the form of a deed. Nowadays, the government lease is deemed issued and the legal estate granted to the lessee upon compliance with the conditions upon which the government lease is granted. After compliance with the conditions in the government lease, the lessee, better say the developer, could apply for the Certificate of Compliance (CC). After CC is issued by the government and registered at the LR, legal title is passed to the developer to satisfy his/her purchaser that he can dispose of the legal title of the development.

Lease Modification

The terms in the government lease can be modified upon mutual agreement of the lessee and the government. It is done by government lease modification. The lessee is required to pay the government a premium if the 'after value' of the modification is greater than its 'before value' (Lai, 1997).

If a proposed development contradicts the lease conditions or is not allowed under the government leases, but is permitted under the zoning plan as a matter of right under Column 1 or upon a successful application for planning permission, the developer must obtain a lease modification and pay a modification premium before it applies for building permission (Lai, *et al.*, 2007).

Breach of Lease Conditions

When the lease conditions are breached, the government may take lease enforcement action such as refusal to renew the government lease, an injunction, imposition of fines and contractual repossession (re-entry) of land (Lai, 1998).

CHAPTER 3

LITERATURE REVIEW ON PLANNING CONDITIONS

IMPOSITION OF PLANNING CONDITIONS

Planning conditions, as discussed in Chapter 2 and 3, are imposed during planning decisions, i.e. s.16 application, s.17(1) review and planning appeal. In approving a development scheme, the TPB or the Appeal Board may impose conditions including those requiring the provision of public facilities or certain infrastructure which are related in scale and kind to the proposed development. Section 16(5) of the *Town Planning Ordinance* clarified that any planning permission granted by the TPB may be subject to such conditions as it thinks fit.

Although planning conditions in Hong Kong are imposed unilaterally by the planning authority and are not open to negotiation (Lai, Ho and Leung, 2005), an applicant can file for a review if he or she is not satisfied with the planning conditions imposed by the TPB on the planning permission for the s.16 application (Lai, 1999).

Planning conditions attached to a successful application are stipulated in the letter issued by the TPB under Section 16(6) of the *Town Planning Ordinance* informing an applicant that the development application for such development or change of use has been approved. However, due to privacy legislation, information of planning conditions is now released only in the form of computer print out at <http://www.ozp.tpb.gov.hk> (Lai, Ho and Leung, 2005).

Lai *et al.* (2007) discussed about the imposition of planning conditions with reference to various papers:

‘Under common law, planning conditions should only be imposed when they are necessary, relevant to planning, not unrelated to the development, enforceable, precise and reasonable in all other respects. Doubtful conditions should not be imposed... Planning conditions must be fairly and reasonably related to the type of development permitted ... and must be within control of the applicant... A planning condition is imposed as part of the planning function, and as much, must be imposed for a planning purpose and not for an ulterior motive... A planning condition is free from uncertainty if it can be given a non-sagacious or non-ascertainable meaning, but not merely because it is confusing or will lead to wicked or absurd results... Conditions should not be imposed unless they are both necessary and effective and do not place unjustifiable burdens on applicants.’

SIGNIFICANCE OF PLANNING CONDITIONS

Lai, Ho and Leung (2005) identified four points about planning conditions:

‘Planning conditions governs the types and nature of use and building for which planning permission is required.’

‘These conditions are an important link in development control, conveyancing and property management and compliance with planning conditions is of practical importance from planning, building and lease control points of view.’

‘In development control, planning conditions are measures by which the

physical manifestation and process of development are regulated with a view to ensuring that such aims of town planning as balancing population build-up with environmental facilities and the minimization of externalities are achieved.’

‘[Planning conditions] serve the planning purpose of ensuring that the development process and outcome is proper in terms of environment, transportation and safety.’ (Bracket by the author)

Lai *et al.* (2007) identified that planning conditions generally serve the purpose of making an otherwise undesirable development acceptable by ‘fine-tuning’ the details of a development proposal to render it more satisfactory; boosting the quality of a development and facilitating it so that it can proceed; supplementing the deficiencies in government leases; and protecting the interests of third parties. Some planning conditions like open spaces and submission of MLPs can even enhance property values.

Lai (1999) stated another significance of planning conditions is that imposing relevant planning conditions can ensure the successful implementation of an approved plan.

Planning condition can also increase flexibility of planning decisions. Lai and Ho (2001) suggested that house development that is limited in scale and intensity can be permitted if the proposal also satisfies other relevant planning conditions such as those relating to traffic and landscape standards. It means that the mechanism of planning conditions can increase the success rate of planning applications for a wider range of different developments by imposing relevant planning conditions.

In the economic view, actual compliance with planning conditions imposed by the planning authority is interpreted as the actual private supply of planning by developers that satisfies both public interests and profit incentives' where 'the imposition of planning conditions are views as a publicly regulated demand for planning that developers have to fulfill (Lai, *et al.*, 2007).

CLASSIFICATION OF PLANNING CONDITIONS

Classification by Different Ways

Lai, Ho and Leung (2005), classified the planning conditions into two types, namely:

- (I) those requiring the fulfillment of positive physical planning obligations such as the provision of a minimum amount of open space, vehicular access with specified minimum width¹¹; and
- (II) those requiring the carrying out of specific assessment exercises to the satisfaction of certain authorities other than the TPB before development may commence¹².

¹¹ It relates to the actual building density, layout design and uses. Examples are the need for development to conform to a master layout; 'design, disposition and height' (DDH) clauses; parking standards; and other norms acceptable to government as the landlords (Lai, 1998).

¹² It relates to certain technical assessment procedures an applicant must carry out in order to gain approval for a development. Examples are environmental, transport and drainage impacts assessment. (Lai, 1998).

According to the *Town Planning Board Guidelines on Compliance of Approval Conditions*¹³ (hereinafter referred to as ‘the Guidelines’), planning conditions can be broadly divided into two types, i.e. those required to be complied with before building plan approval and those required to be complied with after building plan approval, normally before occupation of the development.

According to the Guidelines, planning conditions include the following categories:

- (a) Conditions governing the design, disposition or layout of the proposed development or the provision of certain facilities such as car parking spaces, footbridges and other community facilities within or forming part of the building development.
- (b) Condition requiring the submission of a conceptual landscaping proposal in the case of a development falling within a “CDA” or area with special design significance.
- (c) Conditions requiring the submission of further detailed impact assessments, e.g. traffic impact assessment, environmental assessment, drainage impact assessment, etc.
- (d) Condition requiring the submission of a revised Master Layout Plan (MLP) which the compliance of other approval conditions would result in any major changes in the design, disposition or layout of the proposed development.
- (e) Conditions requiring the provision of on-site facilities such as vehicular access, landscaping, drainage and sewage treatment and disposal facilities.

¹³ Hong Kong Government, (1999), *Town Planning Board Guidelines for compliance of approval condition*, Town Planning Board, Hong Kong.

(f) Conditions requiring the implementation of any proposed mitigation measures for the treatment of environmental, drainage and sewage impacts.

(g) Conditions requiring that the development should not be occupied before provision of off-site works/facilities such as road improvements, trunk sewers improvement, etc.

(h) Conditions regarding the provision of facilities which require funding from government such as public transport facilities, external footbridge links, government, institution, community (GIC) and other off-site facilities.

Category (a) to (d) are planning conditions required to be complied with before building plan approval concern or would affect the detailed design of the development. Category (e) to (h) are planning conditions required to be complied with after building plan approval have no direct impact on the detailed design of the development. But they are expected to be complied with before the occupation of the development because non-compliance of these conditions prior to the occupation of the development may cause serious adverse impacts to both the development itself and the surrounding area. According to the Guidelines, they include:

Yeung (2003) classified the planning conditions into 15 detailed aspects. They are as follows:

- (1) MLPs
- (2) specific transport provisions for the development
- (3) public transport provisions
- (4) public open spaces

- (5) master landscape schemes
- (6) development and implementation programmes
- (7) refuse collection points
- (8) drainage and sewage provisions
- (9) government/institution/community facilities
- (10) urban design aspects
- (11) environmental protection issues
- (12) fire services provisions
- (13) slope maintenance
- (14) building preservation
- (15) expiry of the permissions

The way classifying of planning conditions may be different, but they can be summarized and sorted according to different provisions as shown in Table 1¹⁴.

¹⁴ The items in TABLE 1 shall be referred to by their item nos. in the previous paragraphs in this section.

TABLE 1: CLASSIFICATION OF PLANNING CONDITIONS

Provisions		Lai, Ho and Leung (2005)	The Guidelines		Yeung (2003)
			Before Building Plan Approval	After Building Plan Approval	
A	Deposition of MLP	(I)	(d)		(1)
B	Landscape ¹⁵		(b)		(5)
C	Physical provisions (incorporation into MLP and actual compliance)		(a)	(e) (f) (g) (h)	(2) (3) (4) (6) (7) (8)
D	Assessment	(II)	(c)		(9) (10) (11) (12) (13) (14) (15)

Planning Conditions Regarding MLP

Planning conditions regarding MLP includes those in provision A, B and C. As they are related to CDA, what MLP and CDA are, and the detail of planning conditions related to MLP are reviewed below.

Master Layout Plan

The MLP is a large scale plan (say 1:250 or 1:500) showing such key planning

¹⁵ Master Landscape plan may be included in the MLP for a large development (Lai, Ho and Leung, 2005). Therefore, it is related to the provision of MLP.

matters as the number and layout of the housing blocks, non-building areas, mix and number of flats, car parking spaces, location of private open space (including planted areas and swimming pools, if any), refuse collection points and alignment of access roads and emergency exits. The MLP for a large development may include a master landscape plan showing the species of plants both existing and to be planted by location (Lai, Ho and Leung, 2005).

Comprehensive Development Area

The CDA zoning was first introduced in OZPs in 1976, with the key objective to facilitate urban restructuring and to phase out incompatible development and non-conforming uses¹⁶ It was previously known as ‘other Specified Uses’ annotated ‘Comprehensive Development/Redevelopment Area’ zoning. The intention of this zoning was to ensure that the land zoned would be redeveloped in a comprehensive fashion. In a CDA zone, there was no Column 1 or always permitted use. This means that any type of new development or redevelopment needs planning approvals (Lai and Fong, 2000).

In general, CDAs are designated in the interest of the wider public although individual property owner's right would be taken into consideration. They are designated after careful consideration of such factors as the planning intention for the area, land status, ownership and other development constraints, including the likely prospect for implementation. They will only be designated where there are no better alternative zoning mechanisms to achieve the desired planning objectives specified in

¹⁶ Hong Kong Government (1999), *Town Planning Board Guidelines for designation of “Comprehensive Development Area” (CDA) zones and Monitoring the Progress of “CDA” Development*, Town Planning Board, Hong Kong.

the guidelines¹⁷. A CDA generally has the ‘planning intention’ of encouraging comprehensive, rather than piecemeal, development in an urban renewal or suburbanization setting. Once an application is approved, the TPB can impose a host of planning conditions, including development according to the submitted MLP (Lai, *et al.*, 2007).

MLP Deposition

For CDA, the statutory zoning plan only permits development or redevelopment according to an approved MLP (Lai, 1998).

Pursuant to section 4A(2) of the *Town Planning Ordinance*, the TPB may require all applications for permission in an area zoned as ‘CDA’ or ‘Other Specified Uses’ annotated ‘Comprehensive Development/Redevelopment Area’ to be in the form of MLPs and supported by other relevant information. If approved by the Board, a MLP shall be signed by the Chairman of the TPB and deposited in the LR for public inspection at no cost in accordance with section 4A(3) of the *Town Planning Ordinance*¹⁸. This requirement is reinforced by an express planning condition in the planning permission (Lai, Ho and Leung, 2005). The public policy concern for this legal public inspection requirement is obviously consumer protection (Lai, *et al.*, 2007).

¹⁷ Hong Kong Government (1999), *Town Planning Board Guidelines for designation of “Comprehensive Development Area” (CDA) zones and Monitoring the Progress of “CDA” Development*, Town Planning Board, Hong Kong.

¹⁸ Hong Kong Government (1999), *Town Planning Board Guidelines for designation of “Comprehensive Development Area” (CDA) zones and Monitoring the Progress of “CDA” Development*, Town Planning Board, Hong Kong.

Incorporation of physical provisions into MLP

If planning conditions which would affect the general layout of the development or other plans or schedules that the developer submitted are imposed during planning decisions, the developer should be asked to amend the MLP to incorporate the conditions, where appropriate, prior to signature by the chairman and deposition in the LR (Cheng, 1998).

Therefore, there are two kinds of planning conditions related to MLP arose so far: the one which requires deposition of MLPs (Provision A and B) and the other one which should be incorporated into MLPs if affecting the development layout (Provision C).

Planning Conditions Regarding Assessment

Planning Conditions regarding Assessment are those in Provision D. The assessment exercises encompass such process as environmental impact assessment, ecological impact assessment, drainage impact assessment, traffic impact assessment that is stated to be, respectively, to the satisfaction of the Director of Environmental Protection, Director of Agriculture, Fisheries and Conservation, Director of Drainage Services and Director of Highways. In case a required process does not produce results that are satisfactory and hence the relevant authority is “not satisfied”, then the developer may not be able to carry out development and a fresh application may be required (Lai, Ho and Leung, 2005).

COMPLIANCE WITH PLANNING CONDITIONS

Compliance is important in improving the effectiveness of development control through planning conditions (Sands, 2003). Faithful compliance with planning conditions imposed by a planning authority is a key link in the development control process, as this means that the public's demand for good planning is actually satisfied (Lai et. al, 2007).

Compliance with planning conditions basically means factual compliance with those physical provisions (Provision C) by developers in the developments. These physical provisions should also be complied with according to the submitted MLPs and the relevant government leases on or before the stated deadline for completion.

Where an approved development occurs in a plan with a history of DPA or IDPA plan, failure to comply with planning conditions may render the development an unauthorized development (Lai et. al, 2007). Non compliance with planning conditions in this light may be due to the fact that local planning authorities lack a consistent strategy to manage or sufficient measures to monitor and ensure the implementation of planning conditions (Zhang, 2005).

ENFORCEMENT OF PLANNING CONDITIONS

Enforcement is important in improving the effectiveness of development control through planning conditions. Turland (1990) raised the question of the futility of imposing planning conditions without enforcing them.

Lai, Ho and Leung (2005) divided enforcement of planning conditions in two means: statutory and contractual. ‘Planning enforcement’ action in IDPA and DPA and control measures by the *Buildings Ordinance* and the *Town Planning Ordinance* are statutory means while incorporation of planning conditions into the conditions of the amended government lease is a contractual mean.

Statutory Mean – by Town Planning Ordinance

Mechanism

Before 1991, there was no provision for direct enforcement against breaches of planning control under the *Town Planning Ordinance*¹⁹

Leung and Tang (1998) also realized the problem:

‘Planning Department could not prosecute against unauthorized land use changes or take enforcement action against non-compliance with planning requirements. Statutory planning control of private development relied on means other than planning legislation, notably lease conditions and the *Buildings Ordinance*.’

In 1991, the *Town Planning (Amendment) Ordinance* (the *Amendment Ordinance*) has introduced direct enforcement powers into Hong Kong’s planning legislation, but the scope is restricted to areas covered by DPA plans and areas where the DPA plans

¹⁹Hong Kong Government (1995), *Town Planning in Hong Kong: A quick reference*, Planning Department, Hong Kong.

have been replaced by OZPs²⁰.

Leung and Tang explained:

‘Under the amended planning legislation of 1991, the TPB in consultation with the Planning Department may declare and rural area a DPA and prepare and statutory DPA plan²¹ to provide direct planning control and development guidance. Within the DPAs, development incompatible with the statutory planning intention and without planning approval constitutes an unauthorized development. Such a development is subject to prosecution by the planners under law.’

The Planning Authority is empowered to undertake direct enforcement action against illegal development for rural area which has a history of DPA or IDPA plan. In practice, the Planning Department would commence enforcement action on complaint, even if the complaint was made by phone and anonymously. Thus, there is a danger of criminal liability under the relevant enforcement provisions if any of the planning conditions is factually not fulfilled (Lai, Ho and Leung, 2005). The power is basically a prosecution power for offences under the Town Planning Ordinance (Leung, 2006).

However, Lai, Ho and Leung (2005) commented that neither the Planning Department nor the TPB have published any report on planning conditions, not to mention compliance with them. Lai, Ho and Leung (2005) further reiterated that although there is no express provision within the *Town Planning Ordinance* on the enforcement of planning conditions, failure to comply with planning conditions may

²⁰ Hong Kong Government (1995), *Town Planning in Hong Kong: A quick reference*, Planning Department, Hong Kong.

²¹ DPA plans will ultimately replaced by OZPs.

render the development an unauthorized development. So, where the approved development occurs in a plan with history of being an IDPA or DPA plan, non-compliance of planning conditions can be prosecuted.

Limitations

Despite the amendment of planning law in 1991, the power of the planning authority is restricted to the land covered by an IDPA or DPA plans, i.e. only rural New Territories. Moreover, it did not clarify about whether the Planning Authority can take legal action against non-compliance of planning conditions. The enforcement of statutory planning control and the enforcement of planning conditions for land in urban area, i.e. on Hong Kong Island and Kowloon and New Kowloon, remains depend on other pieces of legislation, notably the *Buildings Ordinance* and *Building Regulations*, or the Requirement to renew or modify the Crown lease itself (Lai, 1998).

Lai and Fong (2000) identified that statutory town planning and the decisions of the TPB are dependent on both the LA and BA for implementation in the following areas:

- (1) Enforcement of provisions of statutory town plans (other than those with a history of IDPA) relied on the *Buildings Ordinance*.
- (2) 'Planning conditions' imposed by the TPB for an approved planning application is enforceable if they are incorporated in the government lease as lease conditions.

(3) Successful planning applications do not automatically entail successful lease modifications.

(4) Successful planning applications and lease modifications do not guarantee building permission.

The Planning Authority is unable to take any action if the use of land does not conform with the Statutory Plans but without violating the *Buildings Ordinance* or lease conditions governing the use of the land/ property concerned²².

The major limitations is that since there is no provision for the direct enforcement of planning conditions, there is no statutory penalty for non-compliance with planning conditions and legal sanction or punishment is absent (Lai et. al, 2007).

Another drawback of the enforcement power given under the *Town Planning Ordinance* is that it cannot be tailor-made according to the individual circumstances of particular sites (Leung, 2006).

Statutory Mean – by Buildings Ordinance

Mechanism

While the power of the planning authority to enforce planning conditions is restricted to land in rural areas, the *Buildings Ordinance* is actionable for any piece of land in Hong Kong.

²² Hong Kong Government (1988), *Town Planning in Hong Kong*, Town Planning Office, Govt. Printer, Hong Kong, pp. 2-7.

The *Buildings Ordinance* empowers the Buildings Department of the Hong Kong Government to reject those buildings which contravene the provisions in the statutory town plans and the conditions imposed under the planning permission (Leung and Tang, 1998). Theoretically, as a matter of policy and practice, the BA will not grant a building permit unless these two conditions are satisfied (Lai, 1998). Planning conditions should be complied in order to obtain approval of building plans and thus commence building works.

Fung (1988) suggested that ‘it is thus possible, indirectly through the vetting of building plans under the *Buildings Ordinance*, to ensure that new building works are in compliance with the designated zoning on a statutory plan, or where planning permission is necessary, that such permission has been obtained and any related conditions by the TPB have been complied with.’

Limitations

The main limitation of the enforcement of planning conditions by the *Buildings Ordinance* is that even when the government uses the *Buildings Ordinance* to enforce planning conditions, this can only enforce those planning conditions that involve building works, but cannot enforce matters that do not deal with buildings (Lai, et. al, 2007).

Another limitation is that, as classified by the Guidelines in the previous section of this chapter, some planning conditions are required to be complied with only after building plan approval. But they are expected to be complied with before the

occupation of the development. A good example for this kind of planning conditions is the requirements for vehicular access, landscaping, drainage and sewage treatment and disposal facilities. Building plan approval may be granted before these requirements are satisfied.

This will lead to a question: who is going to examine whether these requirements are satisfied before the occupation of the development?

The *Buildings Ordinance* does contain some provisions regarding the occupation of the development, mainly about the occupation permit:

Section 21(1)(a) states that no new building shall be occupied unless in respect of such building the BA has issued an occupation permit.

Section 21(2)(a) states that on receiving an application in the appropriate specified form, the BA may issue an occupation permit in respect of the new building which is the subject of such application.

Section 6(a) states that the BA may refuse to issue a temporary occupation permit or an occupation permit under this section where any part of the building works has been carried out in contravention of any of the provisions of the *Buildings Ordinance*.

However, they are ambiguous about whether planning conditions has to be complied with before the issue of occupation permit.

And this leads to another question: will somebody discover the non-compliance of these planning conditions?

This question is also raised by Jowell and Millichap (1983). It described the situation in London and doubted whether local authorities have the resources even to detect breaches in planning law. It found that information about breaches of planning control was not normally actively sought by authorities, but brought to their attention by complaints, usually from the public. The process is reactive rather than proactive. McKay, Berry and Mcgreal (2003) further found that one major problem of enforcing planning conditions was a difficulty in identifying breaches. There are deeply entrenched reasons for the gap between the power available to uphold the principles of regulations and the practice of enforcing these regulations. Unwieldy legislative mechanisms and a lack of funds mean that it is hard not only to detect breaches, but also to remedy a situation when a discovery is made. For Hong Kong, whether the BA is able to actively detect violation of the *Buildings Ordinance* can be a concern.

Contractual Mean – by Government lease

Mechanism

While the power of the planning authority to enforce planning conditions is restricted to land in rural areas, government lease is actionable for any piece of land in Hong Kong just like the *Buildings Ordinance*. Planning conditions can be enforced by government lease when there a new lease (conditions) is grant or a lease is modified.

Fung (1988) explained that the user and other development restrictions as specified on a statutory plan, or the conditions imposed by the TPB in respect of a planning permission, can in theory be incorporated in the lease conditions.

Leung and Tang (1998) specified that planners can stipulate their planning requirements and the conditions associated with planning permissions in the lease conditions. These conditions are enforced by the Lands Department.

Lai Ho and Leung (2005) explained that where the obtaining of planning permission is a prelude to modification of leasehold interests of land, planning conditions, especially where they involve MLPs, are often rendered enforceable, contractually by incorporation into the conditions of the amended government lease.

Lai (1998) explained that planning conditions imposed by the TPB require adoption in the lease through the lease modification procedures in order to become operational. Planning conditions imposed can only be enforceable through incorporation as covenants in a modified lease (Lai, 1995). When a government lease needs to be modified to allow development, such planning conditions imposed as a matter of planning legislation may become part of a modified lease, and hence, enforceable in court as a matter of land law. If a land-owner develops his/her plot of land in violation of a government lease, the government can revoke the land under a process called 're-entry', according to a covenant of the government lease (Lai et. al, 2007).

One point about MLP is that wherever lease modification is necessary for realizing a project approved by the TPB, compliance with a MLP is always stipulated as a term of the new lease (Lai, Ho and Leung, 2005).

The lessee, usually the developer, has the obligation to comply with the lease conditions, including planning conditions that are incorporated in the government lease.

Besides, as discussed in Chapter 2, legal actions such as refusal to renew the government lease, an injunction, imposition of fines and contractual repossession of land are taken against breaches of lease conditions. The action or the threat of repossession ('re-entry') is the most powerful planning enforcement measure (Lai, 1998).

Limitations

There are certain limitations of the enforcement of planning conditions by government leases.

First, although most planning conditions are enforced as lease conditions, this only applies when: (a) the planning conditions can be incorporated as government lease terms; (b) the Lands Department incorporates the planning conditions into the relevant government leases; and (c) when there is a need to grant a new or modified lease (Lai, et. al, 2007). However, many old leases are virtually unrestricted and no

lease modification is required for redevelopment or change of use²³.

Second, Fung (1988) suggested although lease infringements can be dealt with under the powers of the *Crown Right (Re-entry and Vesting Remedies) Ordinance* procedures of re-entry are lengthy and cumbersome and hence not often used unless as the last resort.

Third, similar to the limitations of the *Buildings Ordinance*, detection of breaches of lease conditions is reactive rather than proactive. For Hong Kong, whether the Land Authority (LR) and is able to detect breaches of lease conditions actively can be a concern, too. This leads to other questions: whether the LR act upon breaches, what legal action they take and on what basis their decisions are based on (Jowell and Millichap, 1983; McKay, Berry and McGreal 2003).

This chapter has reviewed the mechanism of development control through planning conditions including its merits and the limitations. The next chapter will look at its application in the reality.

²³ Hong Kong Government (1991), *Comprehensive Review of the Town Planning Ordinance: Consultative Document*, Planning, Environment and Lands Branch, Government Secretariat, Hong Kong.

CHAPTER 4

CASE STUDY

Chapter 3 reviewed the importance of complying with planning conditions and pointed out some problems in enforcing them. As mentioned in Chapter 1, the effectiveness of development control through planning conditions depends on whether planning conditions are complied with, whether non-compliance are detected and whether enforcement is efficient. This Chapter will investigate the actual situation of compliance and enforcement of planning conditions in Hong Kong by case study of 18 development projects in three aspects:

- (1) whether developers submitted MLPs to TPB and whether the TPB deposit MLPs at the LR;
- (2) whether the Lands Department stipulated the planning conditions in government leases in order to enforce them; and
- (3) whether a developer factually complied with the planning conditions in the development.

There have been some researchers who have studied the above three issues. Yau (2007) and Lai *et al.* (2007) studied the deposition of MLPs at the LR and the factual compliance of planning conditions in the development. Lai *et al.* (2007) further studied the stipulation of planning conditions in government leases but the study was only limited to projects which did not complied with the planning conditions in the development.

This research will study the three issues in 18 development projects in an all-round manner.

SELECTION OF THE CASES

The cases to be studied were selected within completed development projects that were approved by the TPB from 1 January 2001 to 31 December 2006. The period from 2007 to 2008 is not considered because there is no completed project for these two years, as buildings in Hong Kong usually take more than one year to complete.

Project for which uses of 'residential' and 'commercial/residential' on CDAs were studied because the planning permission of residential and residential-commercial mixed developments on CDA are usually attached with a wider range and greater number of planning conditions than that of other applied use like 'industrial'. Moreover, all planning permissions for CDA require the submission of the MLPs, as stated in one of the planning condition, which its compliance is an interesting area to be studied.

There were a total of 199 applications for planning permission (including minor amendment) which were approved with conditions for residential (89 records) and commercial/residential (110 records) use in CDA zones involving 62 sites. The difference in numbers between the no. of records and no. of sites is explained by multiple applications by developers of the same sites. A preliminary site visit to the 62 sites was carried out in November 2007; 23 of them have their development projects

completed and 5 of them were under construction, while others were either vacant site or the old buildings were still standing on them. Information of the development projects are presented in Table 2 and their details are listed in Appendix 1. For the case study, it is necessary to select development projects which were completed, as their factual compliance with the planning conditions has to be investigated at a later stage.

Lai *et al.* (2007) had already checked factual compliance of planning conditions and deposition of MLPs of some of the development projects on these 23 sites. However, Lai *et al.* (2007) only examined the government leases of 4 projects which non-compliance of planning conditions were found. Therefore, except these 4 projects and Project No. 23 (which is only regarding minor amendment of a child care centre with a kindergarten), the other 18 projects were selected as the cases to be studied. Moreover, since Lai *et al.* (2007) conducted the field survey from November 2007 to December 2007, the factual compliance of planning conditions of projects which were not completed at that time were not checked in Lai *et al.* (2007).

The information of the planning conditions of the relevant development projects was obtained in the form of computer printouts at <http://www.ozp.tpb.gov.hk/default.aspx>.

The following sections in this chapter are the summary and interpretation of findings in the case studies.

TABLE 2: COMPLETED DEVELOPMENT PROJECTS

Ref. No.	Project	Applied Use (CR=Commercial / Residential; R=Residential)	Latest planning permission (including minor amendment)	Decision date	Completed before of after Dec 2007?	Remarks
1	Queen's Terrace	CR	A/H3/324	21/11/2001	Before	Selected case
2	The Merton	R	A/H1/72	23/10/2002	Before	Selected case
3	The Zenith	R	A/H5/344	11/09/2004	After	Selected case
4	J Residence	CR	A/H5/350	31/04/2005	After	Selected case
5	8 Waterloo Road	R	A/K2/159	02/08/2003	Before	Selected case
6	Parc Palasis	R	A/K2/167	24/03/2004	Before	Selected case
7	Harbour Green	R	A/K20/84	29/01/2005	After	Selected case
8	Manhattan Hill	CR	A/K16/27	28/05/2004	After	Selected case
9	Metro Harbour View	CR	A/K3/399	03/07/2002	Before	Lease examined by Lai <i>et al.</i> (2007)
10	Banyan Garden Liberte	CR	A/K20/80	23/07/2004	Before	Lease examined by Lai <i>et al.</i> (2007)
11	Park Island	CR	A/I-MWI/38	21/07/2006	Before	Selected case
12	Nob Hill Lai Yan Court	CR	A/KC/268	22/03/2002	Before	Selected case
13	Golf Parkview	R	A/FSS/156	05/12/2003	Before	Selected case
14	The Parcville	R	A/YL/93	15/03/2002	Before	Selected case
15	Vision City	CR	A/TW/374	04/07/2005	After	Selected case
16	South Hillcrest	R	A/TM/317	17/07/2004	Before	Selected case
17	Aegean Coast	CR	A/TM/288	26/07/2002	Before	Selected case
18	The Sherwood	CR	A/TM-LTYYY/110	16/04/2003	Before	Selected case
19	Yoho Town	R	A/YL/101	09/12/2002	After	Selected case
20	Green Orchid	R	A/YL-PS/199	10/11/2004	After	Selected case
21	Bellagio	CR	A/TWW/64	25/04/2002	Before	Lease examined by Lai <i>et al.</i> (2007)
22	Indi Home	CR	A/TW/363	01/04/2005	Before	Lease examined by Lai <i>et al.</i> (2007)
23	Villa Esplanada	CR	A/TY/75	16/05/2002	Before	Minor amendment of a child care centre with a kindergarten

MLP SUBMISSION AND DEPOSITION

As mentioned in Chapter 3, according to section 4A(2) and (3) of the *Town Planning Ordinance*, MLPs shall be deposited at the LR for public inspection at no cost for areas zoned as CDA. The 18 completed development projects were all located in CDA zones which means that deposition of MLP is required under section 4A(2) and (3) of the *Town Planning Ordinance*. Moreover, all of them were associated with a planning condition requiring the deposition the MLP: ‘The submission and implementation of a revised MLP [to take into account other planning conditions] to the satisfaction of the Director of Planning or of the TPB’. (Bracket by the author)

In order to check the compliance with this planning condition, an inspection of their MLPs was carried out at the LR in January 2008. The findings are shown in Table 3 and Table 4. For the 18 completed projects, only ten of their MLPs were deposited at the LR for public inspection at the time; the other eight MLPs were absent. The percentage of non-compliance is 44%. When asked the reason of the missing MLPs, the staff of the LR said that they were either withdrawn by the TPB or they were never deposited. The same answer was given by the LR staff to Lai, Ho and Leung (2005), Lai *et al.* (2007) and Yau (2007). Note that there is no legal provision for the TPB to withdraw MLPs already deposited at the LR.

To determine whether it was an applicant’s fault of not submitting the MLP or there was other reason causing the missing of MLPs at the LR, deposition of MLPs at the TPB office was also checked in February 2008. The findings are also shown in Table 3. For the 18 completed projects, the MLPs for South Hillcrest and Green

Orchid were absent. Their MLPs were also two of the absent MLPs in the LR. When asked for the reason, the staff of the TPB office suggested that they were never prepared by the developers. It can be concluded that two MLPs were never deposited at the LR (11%) and six MLPs were withdrawn by the TPB after deposition at the LR (33%).

A point to note is that the available MLPs at both LR and TPB office were accompanied by relevant planning conditions. Although this was not statutorily required, it would be of great help to the public if it were (Lai *et al.*, 2007).

Another point to note is that although Green Orchid is located on CDA, there was no planning condition requiring the deposition of MLP like the other developments on CDA.

TABLE 3: DEPOSITION OF MLP AT THE LR AND TPB OFFICE

Project	Latest planning permission (including minor amendment)	MLP deposited at LR?	MLP deposited at TPD?
Queen's Terrace	A/H3/324	No	Yes
The Merton	A/H1/72	No	Yes
The Zenith	A/H5/344	Yes	Yes
J Residence	A/H5/350	Yes	Yes
8 Waterloo Road	A/K2/159	Yes	Yes
Parc Palasis	A/K2/167	Yes	Yes
Harbour Green	A/K20/84	Yes	Yes
Manhattan Hill	A/K16/27	No	Yes
Park Island	A/I-MWI/38	No	Yes
Nob Hill Lai Yan Court	A/KC/268	No	Yes
Golf Parkview	A/FSS/156	Yes	Yes
The Parcville	A/YL/93	Yes	Yes
Vision City	A/TW/374	Yes	Yes
South Hillcrest	A/TM/317	No	No
Aegean Coast	A/TM/288	No	Yes
The Sherwood	A/TM-LTY Y/110	Yes	Yes
Yoho Town	A/YL/101	Yes	Yes
Green Orchid	A/YL-PS/199	No	No

TABLE 4: ANALYSIS ON MLP DEPOSITION

	Number of cases	%
Total number of studied cases	18	100
MLP absent at LR	8	44
MLP present at LR	10	56
MLP absent at TPB office	2	11
MLP present at TPB office	16	89
MLP never deposited at LR	2	11
MLP withdrawn by the TPB after deposition at LR	6	33
MLP deposited at LR	10	56

STIPULATION OF PLANNING CONDITIONS IN GOVERNMENT LEASES

For the 18 completed development projects, land search was conducted at a cost of \$10, the relevant government leases were inspected at a cost of \$10 each, and the modification letters were purchased at a cost of \$100 each from the LR in February 2008. To find out whether planning conditions were stipulated in the government leases in order to enforce them, the relevant government leases and modification letters were examined thoroughly. The findings are presented in Table 5.

As mentioned in Chapter 3, planning conditions were incorporated in the government lease through lease modification after planning decisions or during new grant of lease (conditions). Lease modification was carried out in half of the projects but not in Queen's Terrace, the Merton, Harbour Green, Nob Hill and Lai Yan Court, Green Orchid, Park Island, the Parville, South Hillcrest and Aegean Coast. For the first five projects mentioned, commencement of their leases occurred after planning permission, so that planning conditions can, in theory, be incorporated into the leases. It seems that in the last four projects, planning conditions could not be incorporated in the leases. An example is the emergency vehicular access in South Hillcrest. However, it was observed that some planning conditions appeared in the lease in the first hand before any application for planning permission, i.e. the lease conditions were prelude of the planning conditions. An example is the provision of emergency vehicular access was stipulated as lease conditions for Park Island, the Parville and Aegean Coast.

In the 18 projects, none of them have stipulated all planning conditions in their lease. Some of the planning conditions were incorporated into their leases for some projects, but not others. For example, the planning conditions for open space were imposed as lease conditions for Queen's Terrace, the Merton, 8 Waterloo Road and Vision City, but not for Manhattan Hill, the Parcville and the Sherwood; the planning conditions for footbridge were imposed as lease conditions for the Merton, the Zenith, Harbour Green, Vision City and Yoho Town, but not for Manhattan Hill; the planning conditions for lay-bys were imposed as lease conditions for the Zenith, Harbour Green and Vision City, but not for Queen's Terrace and Parc Palais; the planning conditions for emergency vehicular access were imposed as lease conditions for Park Island, Nob Hill and Lai Yan Court, the Parcville, Aegean Coast and The Sherwood, but not for Parc Palais, Harbour Green, Manhattan Hill, South Hillcrest and Yoho Town.

From the government leases examined by the author, the two provisions which are most likely to be incorporated into leases are 'traffic arrangements and facilities' and 'social welfare, community, public or government facilities'. The two provisions which are the least likely to be incorporated into leases are 'schemes/proposals regarding traffic arrangement including road/street widening and junction improvement' and 'noise mitigation measures'.

Deadline for compliance were stipulated for some planning conditions, but not others. There were sometimes deadline for completion for planning conditions especially those related to government facilities, such as the cooked food center in Queen's Terrace, social welfare facilities in Queen's Terrace and Vision City, and market, public toilets and day nursery in The Zenith, however, there was no such

deadline for the kindergarten facilities in Harbour Green. Moreover, there were usually no such time limit for compliance for other planning conditions.

There might not have been any specific stipulation for non-fulfillment of a particular lease condition; there is always a catch-all covenant of re-entry by the government for a breach of any lease condition.

The findings in the government leases that have been examined showed that the Lands Department was selective in incorporating planning conditions imposed by the TPB in the leases. It can be observed that planning conditions related to public use and social welfare facilities were usually stipulated in the lease with a deadline for completion. Examples include footbridge, open space, market, public toilet, day nursery, kindergarten, loading/unloading facilities, road widening scheme, public transport terminus, etc. The reason behind may be to protect public interests in a more strict and efficient manner by the lease enforcement mechanism.

In cases where the planning conditions were not incorporated into its relevant government lease, real non-compliance could well be the case if the lessee had no intention of or was negligent in fulfilling the conditions within a reasonable amount of time. To ascertain this, a long period of observation and a good monitoring and enforcement system are required (Lai *et al.*, 2007). The following part would try to investigate the real, or better say, factual compliance of planning conditions.

TABLE 5: FINDINGS IN THE EXAMINED GOVERNMENT LEASES

Project	Date of planning permission (dd/mm/yyyy)	Lease Condition no.	Commencement of lease (dd/mm/yyyy)	Date of lease modification (dd/mm/yyyy)	Any lease modification after planning permission	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)
Queen's Terrace	11/12/1998	Conditions of Exchange No. UB12602	17/09/2001	N/A	No	Cooked food centre with public toilets	Yes	17/09/2006
						Open space with disabled access	Yes	17/09/2006
						Social welfare facilities	Yes	17/09/2006
						Parking spaces for motor cycles	Yes	No
						Vehicular access	Yes	No
						Road widening scheme	No	N/A
						Bus lay-by, taxi-lay-by & footpath widening	No	N/A
						Diversion of underground drainage facilities	Yes	No
						Diversion of water mains	Yes	No
The Merton	30/06/2000	Conditions of Exchange No. UB12616	29/01/2002	N/A	No	Vehicular ingress/egress	Yes	No
						Scheme on alternative tram track alignment	No	N/A
						Public open space	Yes	29/01/2007
						Footbridge with staircase/lift	Yes	No

Project	Date of planning permission (dd/mm/yyyy)	Lease Condition no.	Commencement of lease (dd/mm/yyyy)	Date of lease modification (dd/mm/yyyy)	Any lease modification after planning permission	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)
The Zenith	20/02/2004	Conditions of Exchange No. UB12640	09/06/2003	09/08/2004 09/05/2005	Yes	Lay-bys, carparks & L/UL bays	Yes, after lease modification	No
						Road/footpaths widening	No	N/A
						Footbridges	Yes	No
						Market	Yes	30/06/2007
						Public toilets	Yes	30/06/2007
						Day nursery	Yes	30/06/2007
						Diversionary lanes	No	N/A
						Noise mitigation measures	No	N/A
Provisions related to Wan Chai Market	No	N/A						
J Residence	04/03/2005	Conditions of Exchange No. UB12663	13/07/2004	28/12/2005	Yes	Divergent Street	No	No
						Setting back of residential tower	No	N/A
						L/UL bays	Yes	No
						Conform to the approved conservation plan for the pre-war buildings	Yes	No
						Noise mitigation measures	No	N/A
8 Waterloo Road	08/06/2001	Conditions of Exchange No. 12621	04/03/2002	31/12/2002 06/08/2003 03/11/2003	Yes	Retention of red-brick building	Yes	No
						Vehicular entrance, car parking motorcycle parking spaces & L/UL	Yes	No
						Public open space & ground level landscape area	Yes	30/09/2006
						Diversion of water mains	Yes	No

Project	Date of planning permission (dd/mm/yyyy)	Lease Condition no.	Commencement of lease (dd/mm/yyyy)	Date of lease modification (dd/mm/yyyy)	Any lease modification after planning permission	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)
Parc Palais	24/08/2001	Conditions of Sale No. 12575	29/06/2000	09/02/2002	Yes	Vehicular access & L/UL facilities	Yes	01/07/2002
						Car parking & motorcycle parking spaces	Yes	No
						Mini bus lay-by	No	N/A
						Road widening & junction improvement schemes	Yes	01/07/2002
						Set-back	No	N/A
						Emergency vehicular access	No	N/A
						Podium	No	N/A
						Refuse collection point	No	N/A
Harbour Green	08/02/2002	Conditions of Exchange UB12620	04/03/2002	N/A	No	Vehicular ingress/egress, internal vehicular access roads, parking and L/UL facilities & lay-bys access	Yes	No
						Pedestrian circulation system (footbridges & entrances to MTR)	Yes	31/3/2007
						Continuous and elevated walkway system (24-hour access and disabled lifts)	Yes	31/3/2007
						Road widening & junction improvement works	No	N/A
						Noise mitigation measures	Yes	04/03/2004
						Kindergarten facilities	Yes	No
						Emergency vehicular access, water supplies for firefighting & fire services installations	No	N/A

Project	Date of planning permission (dd/mm/yyyy)	Lease Condition no.	Commencement of lease (dd/mm/yyyy)	Date of lease modification (dd/mm/yyyy)	Any lease modification after planning permission	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)
Manhattan Hill	28/5/2004	Government Lease	29/04/1907	01/12/2006	Yes	Roads and street widening & signalization works	No	N/A
						Footways and footpath	No	N/A
						Pedestrian footbridge with escalator facilities	No	N/A
						24-hour public pedestrian passage	Yes	No
						Noise mitigation measures	No	N/A
						Sewer connections including upgrading works	No	N/A
						Emergency vehicular access and fire services installations	No	N/A
						Public open space	No	N/A
Park Island	07/02/2003	New Grant No. TW7055	23/06/1997	12/05/2000 11/05/2001 04/11/2002	No	Emergency vehicular access	Yes	No
Nob Hill Lai Yan Court	05/02/1999	New Grant No. 7071 (Nob Hill) & Government Lease (Lai Yan Court)	17/07/1998 & 25/05/2001 respectively	N/A	No	Road improvement proposals	No	No
						Vehicular access (for servicing vehicles to commercial podium & internal roads)	Yes	No
						Setting back of lot boundary	Yes	30/06/2003
						Motor cycle parking spaces	Yes	No
						Parking & L/UL facilities for primary school	No	N/A
						Bus terminus, taxi stand & maxi-cab stand	Yes	01/11/2000
						Emergency vehicular access with turning facility & fire hydrant	Yes	No
						Diversion of drainage & sewage facilities	Yes	No
						Diversion of water mains	Yes	No

Project	Date of planning permission (dd/mm/yyyy)	Lease Condition no.	Commencement of lease (dd/mm/yyyy)	Date of lease modification (dd/mm/yyyy)	Any lease modification after planning permission	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)
Golf Parkview	10/11/2000	New Grant No. 13261	12/03/1999	15/04/2002 24/07/2003 12/03/2004	Yes	Vehicular access road	Yes	No
						Parking spaces	Yes, after lease modification	No
						L/UL facilities	No	No
						Traffic noise mitigation measures & sewage disposal facilities	Yes	No
						Mitigation measures on drainage impact	No	N/A
						Surrender of land	No	N/A
The Parcville	14/01/2000	New Grant No. 4504	29/09/1999	No	No	Improvement works to road/street junction	No	N/A
						Emergency vehicular access, water supplies for fire fighting, fire services installations & turning facilities	Yes	No
						Open space	No	No
Vision City	13/12/2002	New Grant No. TW7201	04/12/2002	09/01/2006	Yes	Public light bus terminus and taxi lay-by	Yes	31/12/2007
						Vehicular access points, parking facilities & L/UL spaces	Yes	No
						Setting back of boundaries to facilitate improvement of junction & road widening	No	N/A
						Footbridges	Yes	31/12/2007
						Hostel for Moderately Mentally Handicapped & Multi-Service Centre for the Elderly	Yes	31/12/2007
						Public open space and amenity areas at reasonable hours	Yes	31/12/2007
South Hillcrest	17/07/2004	New Grant No. TM3427	05/03/2001	03/05/2003 02/07/2004	No	Emergency vehicular access	No	N/A

Project	Date of planning permission (dd/mm/yyyy)	Lease Condition no.	Commencement of lease (dd/mm/yyyy)	Date of lease modification (dd/mm/yyyy)	Any lease modification after planning permission	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)
Aegean Coast	26/07/2002	New Grant No. TM3287	23/11/1996	21/08/1998 17/06/1999 24/06/2002	No	Vehicular access & parking spaces	Yes	No
						Emergency vehicular access, water supplies for fire-fighting & fire services installations	Yes	No
						Vehicular access to other Lots	No	N/A
						Emergency vehicular access/ van track to the east and south-east	No	N/A
						Noise barrier	No	No
						Refuse collection point & public toilet	Yes	No
						Landscaping & visual mitigation measure	No	N/A
						Set-back of boundary	No	N/A
The Sherwood	27/09/2002	New Grant No. TM3432	18/02/2002	25/02/2004	Yes	Noise mitigation measures	No	N/A
						Free standing market site with L/UL bays	No	N/A
						Public open space	No	N/A
						Emergency vehicular access, water supplies for fire-fighting & fire services installations	Yes	No
						Traffic facilities within the site	No	N/A
Yoho Town	07/12/2001	New Grant No. YL4342	16/06/1997	07/02/2002	Yes	Footbridge	Yes, after lease modification	31/03/2008
						Noise mitigation measures	No	N/A
						Car parking	Yes, after lease modification	No
						L/UL facilities	No	N/A
						Emergency vehicular access, water supplies for fire fighting & fire services installations	No	No

Project	Date of planning permission (dd/mm/yyyy)	Lease Condition no.	Commencement of lease (dd/mm/yyyy)	Date of lease modification (dd/mm/yyyy)	Any lease modification after planning permission	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)
Green Orchid	12/04/2002	New Grant No. YL4668	14/07/2004	N/A	No	Vehicular access arrangement & car parking facilities including motorcycle parking spaces	Yes	No

FACTUAL COMPLIANCE WITH PLANNING CONDITIONS IN DEVELOPMENTS

In order to check factual compliance with planning conditions in the developments, field survey to the relevant sites was conducted in February and March 2008. The findings are shown in Table 6 and Table 7. This part including Table 6 only focuses on planning conditions which their compliance can be checked during site visit and does not include those which were difficult to be checked during site visit such as noise mitigation measures, drainage facilities, water supply system and particular scheme and proposal, etc. The reason behind is that it is difficult to find out what measures and facilities were exactly required by the relevant government departments and these measures and facilities were usually located underground or within the site where access was restricted to residents of the developments only..

There were 4 out of the 18 projects that, at the time of site inspection, did not fully comply with planning conditions issued by the TPB²⁴. This meant that the percentage of non-compliance by developers was about 22%. Notable matter of non-compliance was the provision of footbridges in the Merton (Figure 1), Manhattan Hill (Figure 4) and Yoho Town (Figure 5). For the Merton and Yoho Town, it is believed that the missing footbridges will be constructed in the near future after their opposite sites are ready for construction, because there were already openings and platforms built for connection and construction of a new footbridge at appropriate locations (Figure 2, 3 and 6). For Manhattan Hill, the construction of the pedestrian

²⁴ Planning conditions here refer to planning conditions that can be identified during inspection, e.g. footbridge, kindergarten, day nursery, public open space, mini-bus lay-by, etc., which does not include those cannot be inspected, e.g. noise mitigation measures, diversion of existing water mains, drainage facilities.

footbridge has actually commenced already (Figure 5). There is no development which did not comply with more than one planning condition.

Yau (2007) suggested it is typical for the TPB to include provisions like footbridges, pedestrian movement facilities and public facilities as planning conditions in order to improve the areas and ensure a site is developed in a comprehensive manner to fit in with its surrounding. Therefore, non-compliance would make a CDA designation meaningless. The findings show that although these facilities were included in the MLPs or even stipulated in the relevant government leases, the outcome could be different and unpredictable.

Lai *et al.* (2007) raised a question of when within the time span should the planning conditions be fulfilled. The TPB has no history of stipulating time limits for planning conditions, although some planning conditions can (but not necessary will) be incorporated into the relevant government leases if the implementation of a project involves a lease modification. The case studies showed that the TPB did not stipulate time limits for the planning conditions. The time limit for compliance merely depends on the deadline for completion stated in the government leases, in case the planning conditions were stipulated in the lease.

Even if there is a deadline for completion stated in the government lease, there may be another problem. It can be explained by reference to the provisions of footbridge in Yoho Town, and market and public toilets in the Zenith. The deadline for the completion for the footbridge in Yoho Town stated in the government lease is 30th March 2008. But there is still no sign of commencement at the time of site inspection

in February 2008; whether its completion can be on time remains a doubt. On the other hand, the deadline for the completion for the market and public toilets in the Zenith stated in the government lease is 30th June 2007. Although the market has been constructed, it has not been open to the public until February 2008. The case of public toilets was even worse – no public toilet was even found outside the market which was open to the public. Does this mean that the ‘deadline for completion’ stated in the government lease means ‘completion’ but not ‘open to the public’? Should there be another deadline requiring the public facilities to be open to the public? Is ‘deadline for completion’ equal to ‘deadline for compliance’? They remain questions for discussion and further study.

TABLE 6: RESULT OF FIELD SURVEY

Project	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)	Complied with in the development? (Remarks, e.g. reason of non-compliance, reason of unknown)	Complied with before deadline for completion stated in the lease (if any)?
Queen's Terrace	Cooked food centre with public toilets	Yes	17/09/2006	Yes	Yes
	Open space with disabled access	Yes	17/09/2006	Yes	Yes
	Social welfare facilities	Yes	17/09/2006	Yes	Yes
	Parking spaces for motor cycles	Yes	No	Yes	N/A
	Vehicular access	Yes	No	Yes	N/A
	Bus lay-by, taxi-lay-by & footpath widening	No	N/A	Yes	N/A
The Merton	Vehicular ingress/egress	Yes	No	Yes	N/A
	Public open space	Yes	29/01/2007	Yes	Yes
	Footbridge with staircase/lift	Yes	No	No (The opposite site across Cadogan street is under demolition)	N/A
The Zenith	Lay-bys, carpark & L/UL bays	Yes	No	Yes	N/A
	Road/footpaths widening	No	N/A	Yes	N/A
	Footbridges	Yes	No	Yes	N/A
	Market	Yes	30/06/2007	Yes (It has not opened yet.)	Yes
	Public toilets	Yes	30/06/2007	Unknown (The public toilets may be located in the market which has not opened yet.)	N/A
	Day nursery	Yes	30/06/2007	Yes	Yes
J Residence	Diversionsary lanes	No	N/A	Yes	N/A
	Divergent Street	No	No	Yes	N/A
	L/UL bays	Yes	No	Yes	N/A
	Conform to the approved conservation plan for the pre-war buildings	Yes	No	Yes	N/A
8 Waterloo Road	Retention of red-brick building	Yes	No	Yes	N/A
	Vehicular entrance, car parking & motorcycle parking spaces	Yes	No	Yes	N/A
	Public open space & ground level landscape area	Yes	30/09/2006	Yes	Yes

Project	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)	Complied with in the development? (Remarks, e.g. reason of non-compliance, reason of unknown)	Complied with before deadline for completion stated in the lease (if any)?
Parc Palais	Vehicular access & L/UL facilities	Yes	01/07/2002	Yes	Yes
	Car parking & motorcycle parking spaces	Yes	No	Yes	N/A
	Mini bus lay-by	No	N/A	Yes	N/A
	Emergency vehicular access	No	N/A	Yes	N/A
	Refuse collection point	No	N/A	Unknown (It was not allowed to enter the development for inspection.)	N/A
Harbour Green	Vehicular ingress/egress, internal vehicular access roads, parking and L/UL facilities & lay-bys access	Yes	No	Yes	N/A
	Pedestrian circulation system (footbridges & entrances to MTR)	Yes	31/03/2007	Yes	Yes
	Continuous and elevated walkway system (24-hour access and disabled lifts)	Yes	31/03/2007	Yes	Yes
	Road widening & junction improvement works	No	N/A	Unknown (The area is under some construction works.)	N/A
	Kindergarten facilities	Yes	No	Yes (The kindergarten has not opened yet.)	N/A
	Emergency vehicular access, water supplies for firefighting & fire services installations	No	N/A	Yes	N/A
Manhattan Hill	Roads and street widening & signalization works	No	N/A	Yes	N/A
	Footways and footpath	No	N/A	Yes	N/A
	Pedestrian footbridge with escalator facilities	No	N/A	No (The construction of the footbridge just started.)	N/A
	24-hour public pedestrian passage	Yes	No	Yes	N/A
	Emergency vehicular access and fire services installations	No	N/A	Yes	N/A
	Public open space	No	N/A	Yes	N/A
Park Island	Emergency vehicular access	Yes	No	Yes	N/A
Nob Hill Lai Yan Court	Vehicular access (for servicing vehicles to commercial podium & internal roads)	Yes	No	Yes	N/A
	Motor cycle parking spaces	Yes	No	Yes	N/A
	Parking & L/UL facilities for primary school	No	N/A	Yes	N/A
	Bus terminus, taxi stand & maxi-cab stand	Yes	01/11/2000	Yes	Yes
	Emergency vehicular access with turning facility & fire hydrant	Yes	No	Yes	N/A

Project	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)	Complied with in the development? (Remarks, e.g. reason of non-compliance, reason of unknown)	Complied with before deadline for completion stated in the lease (if any)?
Golf Parkview	Vehicular access road	Yes	No	Yes	N/A
	Parking spaces	Yes	No	Yes	N/A
	L/UL facilities	No	No	Yes	N/A
	Surrender of land	No	N/A	Yes	N/A
The Parcville	Improvement works to road/street junction	No	N/A	Yes	N/A
	Emergency vehicular access, water supplies for fire fighting, fire services installations & turning facilities	Yes	No	Yes	N/A
	Open space	No	No	Yes	N/A
Vision City	Public light bus terminus and taxi lay-by	Yes	31/12/2007	Yes	Yes
	Vehicular access points & parking facilities & L/UL spaces	Yes	No	Yes	N/A
	Footbridges	Yes	31/12/2007	Yes	Yes
	Hostel for Moderately Mentally Handicapped & Multi-Service Centre for the Elderly	Yes	31/12/2007	Yes	Yes
	Public open space and amenity areas at reasonable hours	Yes	31/12/2007	Yes	Yes
South Hill Crest	Emergency vehicular access	No	N/A	Yes	N/A
Aegean Coast	Vehicular access & parking spaces	Yes	No	Yes	N/A
	Emergency vehicular access, water supplies for fire-fighting & fire services installations	Yes	No	Yes	N/A
	Vehicular access to other Lots	No	N/A	Yes	N/A
	Emergency vehicular access/ van track to the east and south-east	No	N/A	No	N/A
	Noise barrier	No	No	Yes	N/A
	Refuse collection point & public toilet	Yes	No	Yes	N/A
	Landscaping & visual mitigation measure	No	N/A	Yes	N/A
The Sherwood	Free standing market site with L/UL bays	No	N/A	Yes	N/A
	Public open space	No	N/A	Yes	N/A
	Emergency vehicular access, water supplies for fire-fighting & fire services installations	Yes	No	Yes	N/A
	Traffic facilities within the site	No	N/A	Yes	N/A

Project	Relevant planning conditions	Stipulated in the lease?	Any deadline for completion stated in lease? (dd/mm/yyyy)	Complied with in the development? (Remarks, e.g. reason of non-compliance, reason of unknown)	Complied with before deadline for completion stated in the lease (if any)?
Yoho Town	Footbridge	Yes	31/03/2008	No (The opposite site is still vacant.)	Yes
	Car parking	Yes	No	Yes	N/A
	L/UL facilities	No		Yes	N/A
	Emergency vehicular access, water supplies for fire fighting & fire services installations	No	No	Yes	N/A
Green Orchid	Vehicular access arrangement & car parking facilities including motorcycle parking spaces	Yes	No	Yes	N/A

TABLE 7: ANALYSIS ON RESULT OF FIELD SURVEY

	Number of cases	%
Total number of studied cases	18	100
Fully comply with planning conditions ²⁵	15	83
Did not comply with one planning condition	3	17
Did not comply with more than one planning condition	0	0

FIGURE 1: THE MERTON – No footbridge across Cadogan Street
(Photo taken by author 13th March 2008.)



²⁵ Planning conditions here refer to planning conditions which is possible to be checked during site inspection from February to March 2008, which excludes those relate to noise mitigation measures, drainage facilities, water supply system and particular scheme and proposal , etc.

FIGURE 2: THE MERTON – Platform of the proposed footbridge
(Photo taken by author on 13th March 2008.)



FIGURE 3: THE MERTON – Platform for the proposed footbridge
(Photo taken by author on 13th March 2008.)



FIGURE 4: MANHATTAN HILL – Pedestrian footbridge under construction
(Photo taken by author on 22th February 2008.)



FIGURE 5: YOHO TOWN – No footbridge across Yuen Lung Street
(Photo taken by author on 25th February 2008.)



FIGURE 6: YOHO TOWN – Platform for the proposed footbridge
(Photo taken by author on 25th February 2008.)



FIGURE 7: THE ZENITH – Unopened market
(Photo taken by author on 1st March 2008)



SUMMARY OF FINDINGS

In this chapter, 18 development projects were studied. The findings are listed as follows:

Findings

- 1a Only 10 MLPs (56%) were deposited at the LR for public inspection; 8 MLPs (44%) was either never deposited or withdrawn by the TPB.
- 1b Up to 16 MLPs (89%) were submitted by developers to the TPB as required in the planning conditions.
- 1c Two MLPs (11%) were absent at the TPB office: one of them was not required in any planning conditions.
- 2a Lease modification was carried out in half of the projects but not in the other 9 projects; Out of these 9 projects, 5 of their leases commenced after planning permission, i.e. granted after planning permission; the remaining 4 projects have their leases commenced after planning permission.
- 2b None of the projects have all their planning conditions stipulated in the leases; the Lands Department was selective in incorporating planning conditions imposed by the TPB into the leases.
- 2c The top two provisions which are the most likely to be incorporated into leases are 'traffic arrangements and facilities' and 'social welfare, community, public or government facilities'.
- 2d The top two provisions which are the least likely to be incorporated into leases are 'schemes/proposals regarding traffic arrangement including road/street widening and junction improvement' and 'noise mitigation

measures’.

- 2e Some but not all planning conditions were stipulated in the lease with ‘deadline for completion’.
- 2f Usually planning conditions related to government facilities or public facilities were stipulated in the leases with ‘deadline for completion’.
- 3a Up to 15 projects (83%) have fully complied with planning conditions; only 3 projects (17%) have not complied with the planning condition related to footbridges, but evidence shows that the developers intended to comply with them.
- 3b One project (6%) did not open the facilities to the public as required in the planning condition before the deadline stipulated in the lease and it is very likely that one project (6%) will be unable to comply with the provision of footbridge before the deadline stipulated in the lease.
- 3c There is no time limit for compliance stated with the planning conditions by the TPB during planning decisions.

In the next chapter, the implications of these findings on the effectiveness of development control through planning conditions will be discussed.

CHAPTER 5

IMPLICATIONS AND SUGGESTIONS

IMPLICATIONS

To tell whether development control through planning conditions is effective or not, (1) the compliance of planning conditions was investigated; (2) the situation of detection of non-compliance was looked at; and (3) the efficiency of enforcement was analysed. The implication of the findings²⁶ in Chapter 4 will be discussed in this chapter.

Compliance with Planning Conditions

As mentioned in Chapter 3, compliance is important in improving the effectiveness of development control through planning conditions (Sands, 2003). Findings 3a and 1b respectively implies that developers are performing well in both factual compliance with planning conditions and submission of MLPs to TPB for approval. The level of factual compliance is considered 'high'. There are two reasons behind.

Property values are enhanced by planning conditions

First, developers have a natural interest to comply with planning conditions. There is always an idea that planning conditions like open spaces and the mechanism

²⁶ The findings shall be referred to by their item nos. in Chapter 4.

of MLP submission and implementation would enhance property values. Moreover, reliability of the leasehold land system demands the production of a good title in conveyancing. In cases where planning conditions are incorporated in the government leases, if they failed to comply with planning conditions, their property unit titles may be adversely affected. This is one reason why developers try their best to comply with planning conditions in order to protect their own interest and maximize their profit during sales of property units.

Offence under Buildings Ordinance

Second, Findings 1b showed that most of the development projects have their MLPs submitted to and approved by the TPB. Once an MLP was approved by the TPB, the Buildings Department has a right to check if it is different from the approved building plan. Since there is no provision for retrospective approval or a toleration of unauthorized buildings in the *Buildings Ordinance*, developers have no choice but to comply with the planning conditions which are incorporated into the MLPs. Otherwise, they would commit an offence under the *Buildings Ordinance*.

Despite the high percentage of submission of MLPs by developers to the TPB (Findings 1b) for approval, the TPB has not deposit the MLPs at the LR or has withdrawn them (Findings 1a) for unknown reasons. Note that there is always a planning condition requiring deposition of approved MLPs at the LR for CDA and note that there is no provision in the *Town Planning Ordinance* to empower anyone to take away/withdraw MLPs for any reason from the LR which has been deposited there. The deposition of approved MLPs at the LR is considered to be the duty of the

TPB, but obviously, the TPB is not performing well in this case.

Moreover, Findings 1c showed that there was one project in which there was not even a planning condition requiring the submission of MLP even if it was on a CDA zone. It remains a question whether it was caused by negligence of the officers in the TPB during planning permission.

In addition, the non-compliance of provisions of footbridges (Findings 3a) raised the question of whether non-compliance of a planning condition is due to mere negligent or intention of a developer. It is difficult to determine whether the non-compliance is a permanent failure to comply or simply a delay (Lai, *et al.*, 2007). The consequences will be explained in more detail in the next section of this chapter.

Overall, it is found that the effectiveness of development control through planning conditions in terms of factual compliance by developers is satisfactory, but the effectiveness in terms of TPB's cooperation/coordination in compliance is not satisfactory.

Detection of Non-Compliance of Planning Conditions

Despite the high level of factual compliance of planning conditions by developers, there is two potential problems: the lack of time limit for compliance and absence of MLPs at the LR and TPB office. As mentioned in Chapter 3, planning conditions should be complied with according to the submitted MLPs and the relevant government leases on or before the stated deadline for completion. These two

potential problems are actually leading to difficulties in detecting non-compliance of planning conditions, and thus, lower the effectiveness of development control through planning conditions in terms of detection of non-compliance.

Time limit for compliance

The absence of a time limit for complying with planning conditions means that it would be really hard to determine whether there was a permanent failure to comply or simply a delay (Lai *et al.*, 2007). Moreover, since there is no deadline for compliance provided by the TPB during planning decisions (Findings 3c), and there is only deadline for completion for some but not all planning conditions stipulated in the government leases (Findings 2e), this would provide an excuse for developers and land-owners to procrastinate in their compliance. In case the planning conditions are not incorporated into a government lease or are incorporated without a deadline for completion, it would be hard to tell whether developers have intention of or are only negligent in fulfilling the conditions within the time limit, especially in the case of new development projects. Of course, the older a development project, the more likely that its absence of fulfillment would be tantamount to a failure to comply.

On the other hand, Findings 3b pointed out another problem about the ambiguity of the term ‘deadline for completion’ stated in the government leases. ‘Deadline for completion’ is not necessarily meaning the same as ‘deadline for compliance’ or ‘deadline for opening to the public’ (for provisions of public facilities). The ambiguity would create grey area in compliance of planning conditions to the developer and harm the public interest or even interest of the residents of the development.

These situations would make detection of non-compliance by the public or even the government authorities, like the TPB, the Lands Department and the Buildings Department, very difficult, because they could not even determine when the planning conditions should be complied with.

Absence of MLPs at LR and TPB office

Property developments must be constructed in accordance with any MLP finally approved by the TPB, as well as the relevant building plans approved under the *Buildings Ordinance*, which means that planning conditions have to be complied according to the approved MLPs. However, Findings 1c showed that sometimes MLPs were not submitted for approval. So how the developments could be constructed according to the MLPs which did not exist?

In theory, a developer, who applies to the BA to get its building plans approval and consent for the commencement of works endorsed before the relevant MLP is approved, does not contravene any planning conditions. Although section 16(1)(d) of the *Buildings Ordinance* stated that no building plans can be approved when it contravenes the *Town Planning Ordinance*, the Buildings Department cannot force an applicant to submit an MLP before he/she applies for building plan approval. It cannot be checked whether there is any violation of the planning conditions when it makes its approval decision (Yau, 2007). Non-compliance, thus, cannot be detected by the Building Authority under the mechanism of building plan approval.

In addition, Findings 1a provided evidence of the situation of withdrawn or non-deposition of MLPs at the LR for public inspection. In this way, the public, especially those prospective buyers of the development and their solicitors, cannot check if a property on sale is in compliance with planning law as a matter of property title²⁷ and good town planning (Lai *et al.*, 2007), and most importantly, cannot detect non-compliance of planning conditions and make complaints to appropriate government authorities. As detection of non-compliance depends greatly on the public's discoveries and complaints, the efficiency of detection will be lowered because MLPs are missing.

Overall, it is found that the effectiveness of development control through planning conditions in terms of detection of non-compliance is not satisfactory. One could blame that the *Town Planning Ordinance* for having imposed no statutory duty on the TPB to check compliance by developers with planning conditions and no sanction against or compensation for economic loss due to MLPs (Lai, *et al.*, 2007). One could also blame that the TPB for not imposing the planning conditions with time limit for compliance. These two situations together make the detection of compliance very difficult.

Enforcement of Planning Conditions

Lai *et al.* (2007) identified four enforcers of planning conditions in Hong Kong – Planning Department, Building Authority, Lands Department and property buyer (via solicitor). Their performance in enforcing planning conditions is one of the factors

²⁷ The property title may be affected if planning conditions are incorporated into leases but not factually complied with by developers.

affecting the effectiveness of development control through planning conditions.

Planning Department

(direct statutory enforcement under Town Planning Ordinance)

As mentioned in Chapter 3, there is no provision for the direct enforcement of planning conditions, including the requirement for the deposition of MLPs, under the *Town Planning Ordinance* for urban area which do not have a history of DPA or IDPA plan.

According to Section 4(A)(3) of the *Town Planning Ordinance*, MLP deposition is required at the LR for public inspection and this requirement is reinforced by an express planning condition during planning decisions. However, non-deposition at the LR still happens, as shown by Findings 1a. This is likely to be the result of the absence of any express provision of enforcement against such contravention and the absence of detailed requirements about the withdrawal or amendment to deposited MLPs (Lai, Ho and Leung, 2005).

Although it is criminal liable under the enforcement provisions of the *Town Planning Ordinance* if the planning conditions is not factually fulfilled for rural area, the high level of factual compliance by developers is not sufficient to prove that planning enforcement is efficient, because there are other reasons motivating the compliance of planning conditions as explained in the previous section of this chapter. Also, the enforcement provisions of the *Town Planning Ordinance* are not applicable in urban areas.

The enforcement of planning conditions and enforcement against non-compliance of planning conditions by the Planning Department is inefficient and inconsistent over different areas in Hong Kong.

Building Authority

(indirect statutory enforcement under Buildings Ordinance)

Since there is no provision of direct enforcement of planning conditions under the *Town Planning Ordinance*, any statutory enforcement is provided under the *Buildings Ordinance* through the building plans vetting procedure. Property developments must be constructed in accordance with any MLP finally approved by the TPB, as well as the relevant building plans under the government leases and the *Buildings Ordinance*.

The first problem is that as the Buildings Department cannot force an applicant to submit an MLP before he/she applies for building plan approval, it cannot be checked whether there is any violation of the planning conditions when it makes its approval decision (Yau, 2007). The second problem is that the Building Authority would not reject a building plan on the grounds that there is no MLP, but only reject any application for building development without planning permission (Lai, *et al.*, 2007). This, again, does not enforce the planning condition which requires the deposition of MLPs, nor even positively encourage the compliance of this planning condition. Findings 1a proved this situation.

Although the power of the BA to reject a building plan that contradicts or does not satisfy the planning conditions involving building works is a significant enforcement power, the ambiguity about the position of MLP during building plan approval renders the enforcement of planning conditions and enforcement against non-compliance of planning conditions by the Building Authority inefficient.

Lands Department

(direct contractual enforcement under a government lease)

As mentioned in Chapter 3, it is suggested planning conditions can be enforced as lease conditions under the leasehold system. In breaching the government lease, legal actions may be taken against the lessee. However, planning conditions are enforced as lease conditions only when: (a) the planning conditions can be incorporated as government lease terms; (b) the Lands Department incorporates the planning conditions into the relevant government leases; and (c) when there is a need to grant a new or modified lease (Lai, *et al.*, 2007).

Regarding (a), it was officially announced that ‘legal enforceability’ is a major concern. If the TPB considers any suggested planning conditions unenforceable, it would not include them when it grants planning approvals (Lai, *et al.*, 2007).

Regarding (b), Findings 2b and 2c showed that the Lands Department was selective in incorporating planning conditions imposed by the TPB into the relevant government leases and was selective in incorporating a deadline for completion. Suen (2005) suggested that the Lands Department would only incorporate conditions that

are enforceable in government leases. This is supported by Findings 2d. The provision of 'schemes/proposals regarding traffic arrangement including road/street widening and junction improvement' is really difficult to enforce as the works are complicated and comprehensive, which may require approvals and assessment of various government departments, and the time required is uncertain during drafting of the government lease or lease modification. However, the Findings 2c showed that the provisions of 'traffic arrangements and facilities' and 'social welfare, community, public or government facilities' were the planning conditions most likely to be incorporated in the lease. They are easier to enforce as their works are simpler and more certain. Moreover, Lai *et al.* (2007) suggested the provisions of deadlines and the measures in case of non-fulfillment, such as liquidated damages would be made for government uses that would be assigned back to the government upon completion. This is supported by the Findings 2f.

Regarding (c), Findings 2a showed that there exist cases which lease modification was not carried out after planning permission or their leases were granted after planning permission. In theory, planning conditions are not enforced when there is no new lease granted or the lease is not modified. However, it was not the case in reality. As observed in the findings in the examined leases, some planning conditions appeared in the lease in the first hand before any application for planning permission, i.e. the lease conditions were prelude of the planning conditions. It shows that the government lease is acting as a mean to development control and it is drafted in consistent with planning concern. But it also questioned the possibility of the planning authority granting planning condition with reference to the lease condition.

In addition to these three limitations, Findings 2e identified that even a planning conditions are stipulated into a government lease, it may not be stipulated with a deadline for completion.

Although some of the planning conditions can be enforced by the government lease and some of their non-compliance/non-fulfillment before deadline for completion can be act against through the lease enforcement mechanism, the above three limitations are preventing other planning conditions to be stipulated as lease conditions. The enforcement of planning conditions and enforcement against non-compliance of planning conditions by the Lands Department is significant but inefficient and uncertain.

Property buyers via solicitor

(direct contractual enforcement under sale and purchase agreement)

The solicitor acting on behalf of the property buyers is primarily responsible for enforcing planning conditions in the conveyancing process under the leasehold system. Private enforcement is particularly important due to general concern of property buyers over securing good titles from the vendor for enforcing planning conditions that involve building works and/or are incorporated as lease conditions (Lai, *et al.*, 2007). The common law position in Hong Kong is that a vendor owes a duty to show good title to the purchaser and, if a good title cannot be shown, the purchaser can refuse to complete the transaction and the deal can be called off. In the situation where for some reason good title of a property can never be shown, no purchaser in the market will be willing to buy the property as there will be major problems when

the property is to be resold later (Lai, Ho and Leung, 2005).

It would be a great motivation for the developers to incorporate the planning conditions into government leases through lease modification (in the case the lease is not newly granted) and to factually comply with the planning conditions and lease conditions, in order to obtain the CC and to produce a good title in conveyancing. Similarly, it would be a great motivation for the developers to comply with planning conditions according to the approved MLPs and building plans, in order to obtain the OP and to protect interests of the unit purchaser.

Findings 2a and 3a implies that developers were willing to incorporate planning conditions into the government leases and comply with the planning conditions because this could ensure they could sell the properties. This is the rationale behind the mechanism of enforcing planning conditions by private buyers. The reason of not modifying the lease (Findings 2a) may due to negligence of the developers and the professionals including solicitors and surveyors working for them; and the reason of not incorporating planning conditions as lease conditions (Findings 2b) during new grant is certainly not the responsibility of the developers, but the Lands Department, as explained in the previous section of this chapter.

However, it is sometimes that case that a private buyer does not really cares about the title of the property, maybe due to his ignorance or a really cheap price to buy the property. A vendor without a good title in his/her property may try to capture this kind of private buyers. Therefore, the enforcement of planning conditions by private buyer (via solicitors) is significant but is uncertain because different private

buyers have different perspectives on this issue.

Overall, it is found that the effectiveness of development control through planning conditions in terms of enforcement of planning conditions is not satisfactory. One could blame that there was no direct mechanism at all under the *Town Planning Ordinance* to enforce the planning conditions and to ensure the implementation of planning conditions by developers. Reliance on enforcement under the *Buildings Ordinance* and enforcement by government lease is no watertight (Lai, *et al.*, 2007).

SUGGESTIONS

Basically, the problems which lowers the effectiveness of development control through planning conditions include the absence of MLPs at the LR, the lack of time limit which monitors the compliance with planning conditions, the lack of resources to detect breaches of lease conditions and non-compliance with planning conditions, and most importantly, the absence of an direct enforcement mechanism for planning conditions. Therefore, in this section, several suggestions will be made to eliminate the problems and improve the situation.

Assuring of MLP Deposition

Although section 4A(3) of the *Town Planning Ordinance* requires the approved MLPs to be deposited at the LR for free public inspection, some MLPs were still not deposited or withdrawn by the TPB. There is no other provisions in the *Town Planning Ordinance* nor any internal mechanism in the TPB to monitor this situation.

Lai, Ho and Leung (2005) suggested that there should be a clear indication as to the depositing, amendment, withdrawal, replacement or loss of the MLPs. Specifically, a new sub-section should be added to section 4A of the *Town Planning Ordinance* specifying the time of depositing the MLP and another for the procedure for the amendment, withdrawal and replacement of a deposited MLP. The TPB may also set up internal rules or regulations for staff to follow.

Specifying Time Limit for Compliance

The case studies showed that non-compliance with planning conditions are most probably the result of a lack of time limit monitoring the commencement and completion of the facilities required in the planning conditions. It is suggested that the TPB should specify the time limit for compliance when imposing the planning conditions.

Encouraging Public Involvement

Although it would be the best if government authorities actively detect breaches of lease conditions and non-compliance of planning conditions by carrying out field survey regularly, it is often not the case in practice, as resources are limited. Therefore, the remaining way to detect breaches and non-compliance is by public complaint. However, due to the absence of some of the MLPs at the LR for public inspection and the avoidance of the complicating process to complain, public complaint is discouraged. It is suggested the government authorities should simplify the process of complaint and promote its importance, in order to encourage public involvement in

detecting breaches and non-compliance.

Amending various Ordinances

The absence of the provisions about monitoring and enforcement of the compliance of planning conditions in the drafting of the *Town Planning Ordinance* has posed problems for planning enforcement. It is suggested the *Town Planning Ordinance*, the *Buildings Ordinance* and even the *Conveyancing and Property Ordinance* need to be amended to give better enforceability of planning conditions. For example, the *Town Planning Ordinance* can be amended to empower the TPB to carry out direct enforcement not only in rural area but also urban area; new sub-sections can be added to specify that the breach of any planning condition would revoke a planning permission, rendering a development unauthorized and the infringer would be liable to a fine (Lai, Ho and Leung, 2005). The enforcement can be in form of a system of enforcement notice and stop notice with related provisions for appeal, and penalties for non-compliance as prescribed in a number of planning legislation (Fung, 1988; Samuels, 1985).

CHAPTER 6

CONCLUSION

CONCLUSION

Development control mainly relies on the mechanisms of statutory town plans, building plans and lease conditions. A statutory town plans usually covers a large zoned area with several developments on it, and thus is not flexible in governing the use and density of only one development; building plans, though govern one development at each approval, are only useful in governing matters related to buildings but not others like opening hours of certain facilities; lease conditions, though govern one development for each lease, can be inefficient when it is inconsistent with a new planning decisions. Development control through planning conditions is therefore introduced to supplement the above three means. However, if it is not as effective as it is ideally to be, resources will be wasted.

This dissertation aims to study the effectiveness of development control through planning conditions by looking into 18 development projects in Hong Kong. Since the effectiveness depends on the three factors – compliance, detection of non-compliance and enforcement – this dissertation aims to investigate whether planning conditions are complied with, whether non-compliance is detected and whether enforcement is efficient.

By carrying out field survey to 18 development projects, it was found that developers generally complied with the planning conditions in the developments. The

percentage of projects which have factually complied with all planning conditions is as high as 83%; and the percentage of MLPs submitted by developers to TPB for approval is as high as 86%. Although (factual) non-compliance could still be found in some projects, there is evidence to show that the developers actually intended to comply with the planning conditions but there existed some external factors, such as conditions of the adjacent site, which stopped them from doing so. It can be concluded that the effectiveness of development control through planning conditions in terms of factual compliance by developers is satisfactory. One of the potential problems is that up to 44% of the approved MLPs was either never deposited or withdrawn by the TPB for unknown reasons. MLPs were not deposited by TPB at the LR as required under section 4A(3) of the Town Planning Ordinance. Another potential problem is that there is a lack of time limit for compliance with planning conditions.

The above two problems also made the detection of non-compliance with planning conditions difficult. Due to the lack of time limit for compliance with planning condition, it is difficult to tell whether non-compliance is temporary or permanent. Due to the absence of MLPs at the LR for public inspection, the public, especially some prospective buyers of the projects, are unable to detect non-compliance and make complaints to appropriate government departments. Detection of non-compliance, therefore, relies heavily on actively seeking by the TPB. But it is doubted that whether the TPB will put resources in checking compliance with planning conditions, as it has no statutory duty to do so under the *Town Planning Ordinance*. It is concluded that the above potential problems lower the effectiveness of development control through planning condition in terms in detection of

non-compliance.

According to Lai, *et al.*, there are four enforcers of planning conditions which includes Planning Department, BA, Lands Department and property buyers. Although the TPB (under the Planning Department) has the power of direct planning enforcement for rural areas, there is no express provision for the direct enforcement of planning conditions under the *Town Planning Ordinance*. The BA can only enforce planning conditions involving building works provided that MLP is submitted. Enforcement by property buyers are uncertain because it only relies on the concern of securing good title from the vendor for enforcing planning conditions that involve building works and/or are incorporated as lease conditions. Therefore, enforcement of planning conditions by the Lands Department is of great significance. By examining the lease of the 18 development projects, it was found that the Lands Department is selective in incorporating planning conditions imposed by the TPB into relevant leases. None of the projects have all their planning condition stipulated in their leases. If a planning condition is not incorporated into the government lease, enforcement action is merely possible. Even if some planning conditions were incorporated into the lease, not all of them were incorporated with a ‘deadline for completion’. It is concluded that the effectiveness of development control through planning conditions in terms of enforcement is not satisfactory.

No matter how good and useful is the mechanism of planning conditions in development control, if they are not complied with and enforced properly, the mechanism are considered ineffective and it will become a waste of resources in the society.

LIMITATIONS

There are several limitations for this study. First, the information about planning conditions is only available on the TPB website with little details. Information like location of certain facilities is not available. It creates difficulties in auditing the compliance with planning conditions during site inspection. Second, there is a lack of information of the assessment reports submitted to various government departments by the developers. These made the auditing of compliance with planning conditions regarding assessment in this study impossible. Third, access into certain developments is restricted by the property management staff or securities. So, facilities inside the development cannot be inspected.

FURTHER STUDY

This research study focuses on the applied use of ‘residential’ and ‘commercial/residential’ on CDA. Further study focusing other applied use like ‘office’ and ‘commercial/office’ on CDA can be done. In addition, this research study is conducted in Hong Kong while development control through planning conditions in other countries or cities can be another good research area. A continuous study on this topic is essential to raise public concerns in the compliance and enforcement of planning conditions.

APPENDIX:

DETAILED INFORMATION OF THE COMPLETED PROJECTS

Ref. No. 1 Queen's Terrace

Case No.: A/H3/324

Use Applied for: Proposed Comprehensive Residential Development with Shops, Social Welfare Facilities, Cooked Food Centre with Ancillary Toilet and Open Space (Minor Amendments to the Approved MLP)

Location:
Address: Queen Street, Sheung Wan

Lot Number: IL 8897

Statutory Plan: S/H3/15 (Sai Ying Pun & Sheung Wan OZP)

Detailed Information:
Site Area (sq.m): 6,764.00

Proposed Number of Unit: 1,148.00

Number of Storeys: 40 - 49

GFA Applied for (sq.m): 66233

Zoning: Comprehensive Development Area

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
<u>21/11/2001</u>	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

The application has been considered under the delegated authority of the Town Planning Board. The proposed amendments are found to be acceptable under the Town Planning Board Guidelines for Minor Amendments to Approved Development Proposals (TPB PG - No. 19A). The application is approved on 21.11.2001 subject to the following conditions :

(a) The submission and implementation of a revised Master Layout Plan to incorporate the approval conditions stated in paragraphs (b), (c), (d), (f), (g), (h) and (k) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The design and provision of a cooked food centre (at a net operational floor area of 485m² discounting the area for the water scrubber plant, dangerous goods stores and other related plant rooms) and its ancillary public toilet to the satisfaction of the Director of Food and Environmental Hygiene or of the Town Planning Board;

(c) The design and provision of an open space with disabled access to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;

(d) The design and provision of the social welfare facilities to the satisfaction of the Director of Social Welfare or of the Town Planning Board;

(e) The submission of a sewerage impact study for the development taking into account the interim sewerage improvement in Ko Shing Street, Queen Street and Queens Road West and implementation of necessary improvement works to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(f) The provision of parking spaces for motor-cycles to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(g) The design and provision of vehicular access to the subject site and a detailed road widening scheme at Queen Street, Ko Shing Street, the junction of these two streets and Queens Road West to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(h) The design and provision of the proposed bus-lay-by and taxi lay-by and footpath widening at Queen Street to the satisfaction of the Director of Highways or of the Town Planning Board;

(i) The diversion of existing underground drainage facilities in Tsung Sau Lane East and Heung Hing Lane to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

(j) The diversion of affected existing water mains to the satisfaction of the Director of Water Supplies or of the Town Planning Board;

(k) The submission and implementation of a master landscape plan, including landscape treatment of existing lanes and footpath adjoining the subject site, to the satisfaction of the Director of Planning or of the Town Planning Board; and

(l) The permission shall cease to have effect on 21.11.2004 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref No. 2
The Merton

Case No.: A/H1/72

Approved on 23.10.2002
(Minor Amendments to Approved Development Scheme for Application No. A/H1/57)

Site: Urban Renewal Authority Kennedy Town New Praya CDA

Site Area: 6,075 sq m (about)

Plan: Approved Kennedy Town and Mount Davis Outline Zoning Plan No. S/H1/12

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to the Approved Master Layout Plan

Broad Development Parameters

(a) Total GFA:

Domestic :

Site A: Not more than 44,928 sq m

Site B: Not more than 25,096 sq m

Non-domestic :

Not less than 2,300 sq m (including a public ancillary toilet of not less than 80 sq m GFA and 56 sq m NOFA)

(b) No. of Blocks:

Site A: 2

Site B: 1

(c) No. of Storeys: Not more than 59

(d) No. of Units:

Site A: Not more than 800

Site B: Not more than 520

(e) No. of Car Parking Spaces:

Site A: Not more than 139

Site B: Not more than 84

(f) No. of Motorcycle Parking Spaces:

Site A: 7

Site B: 5

(g) No. of Loading/Unloading Spaces:

Site A: 2

Site B: 1

(h) No. of Refuse Collection Vehicle Spaces:

Site A: 1

Site B: 1

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
23/10/2002	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

The application has been considered under the delegated authority of the Town Planning Board. The proposed amendments are found to be acceptable under the Town Planning Board Guidelines for Minor Amendments to Approved Development Proposals. The application is approved subject to the following conditions :

- (a) The submission and implementation of a revised Master Layout Plan (MLP) to incorporate conditions (b) to (f) below and the implementation of the revised MLP to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) The design and provision of vehicular ingress/egress of the development and the provision of a technically feasible scheme on alternative tram track alignment to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) The design, funding, construction and management of the public open space to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;
- (d) The submission and implementation of a master landscape plan to the satisfaction of the Director of Planning or of the Town Planning Board;
- (e) The design and provision of a footbridge connection at Site A across Cadogan Street with a set of staircase/lift leading to the ground floor as proposed by the applicant to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (f) The submission and implementation of a development programme of the proposed development including the open spaces and landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (g) The permission shall cease to have effect on 23.10.2006 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 3
The Zenith

Case No.: A/H5/344

Approved on 11.9.2004
(Minor Amendments to Approved Development Scheme for Application No. A/H5/337)

Site: URA Development Scheme at Wan Chai Road/Tai Yuen Street, Wan Chai

Site Area: 6,307.7 sq m (about)

Plan: Approved Land Development Corporation Wan Chai Road/Tai Yuen Street Development Scheme Plan No. S/H5/LDC1/2

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to an Approved Scheme for Residential/Commercial Development with "Government, Institution/Community" Facilities

Broad Development Parameters

(a) Total GFA:

Domestic : Not more than 52,539 sq m

Non-domestic : Not more than 3,453 sq m

GIC : Not less than 6,318 sq m

(b) No. of Blocks: 4

(c) No. of Storeys: 46 – 48

(d) No. of Flats: Not more than 904

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
11/09/2004	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(UR) MEETING ON 11.09.2004

The application has been considered under the delegated authority of the Town Planning Board (TPB) and approved subject to the following conditions:

- (a) the submission and implementation of a revised Master Layout Plan (MLP) to incorporate the approval conditions (b) to (k) below to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the design and provision of lay-bys, carparks and loading/unloading bays to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the design and provision of road/footpaths widening along Queens Road East, Tai Yuen Street and Wan Chai Road to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) the design and provision of footbridges linking the three portions of the Scheme Area, as proposed by the applicant, to the satisfaction of the Director of Highways or of the Town Planning Board;
- (e) the design and provision of the market and public toilets to the satisfaction of the Director of Food and Environmental Hygiene or of the Town Planning Board;
- (f) the design, provision and location of the day nursery to the satisfaction of the Director of Social Welfare or the Town Planning Board;
- (g) the provision of diversionary lanes, as a result of the proposed closure of Stone Nullah Lane, to the satisfaction of the Director of Buildings or of the Town Planning Board;
- (h) the design and provision of noise mitigation measures to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (i) the submission and implementation of a Landscape Master Plan to the satisfaction of the Director of Planning or of the Town Planning Board;
- (j) the submission and implementation of a development programme of the whole development scheme to the satisfaction of the Director of Planning or of the Town Planning Board;
- (k) the design of the development on Site C to enhance the collective memories of the community for the Wan Chai Market and the submission of photographic record of the redevelopment stage of the Wan Chai Market site with sufficient time allowed for AMO to collect the salvaged materials from the Wan Chai Market before its demolition to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board; and
- (l) the permission should cease to have effect on 11.09.2008 unless prior to the said date either the development hereby permitted was commenced or this permission was renewed.

Ref. No. 4
J Residence

Case No.: A/H5/350

Approved on 30.4.2005
(Minor Amendments to Approved Development Scheme for Application No. A/H5/348)

Site: URA Development Scheme at Johnston Road, Wan Chai

Site Area: 1,970 sq m (about)

Plan: Approved LDC Johnston Road Development Scheme Plan No. S/H5/LDC3/2

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to an Approved Scheme for Proposed Residential/Commercial Development

Broad Development Parameters

(a) Total GFA:

Domestic : 17,967 sq m

Non-domestic : 2,600 sq m

(b) No. of Blocks: 1

(c) No. of Storeys: Not more than 43+1 Refuge Floor (above a 4-storey Podium)

(d) No. of Flats: 350 to 400

(e) No. of Car Parking Spaces: N.A.

(f) No. of Loading/Unloading Bays:

1 (Residential)

2 (Commercial)

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
30/04/2005	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(DPO) MEETING ON 30.4.2005

The District Planning Officer/Hong Kong, under the delegated authority of the Town Planning Board (TPB), has considered the application. In the light of the reasons/justifications given in the application, The Board inform the applicant that the application was approved on 30.4.2005 and subject to the following conditions :

- (a) the submission and implementation of a revised MLP to incorporate, where appropriate, the approval conditions as stipulated in items (b) to (f) below to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the design and provision of a divergent street connecting Tai Wong Street West to Tai Wong Street East, as a result of the proposed closure of the northern section of Tai Wong Street West, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the setting back of the residential tower by not less than 5m from the podium facade facing Johnston Road to the satisfaction of the Director of Planning or of the Town Planning Board;
- (d) the design and provision of loading/unloading bays to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (e) the submission and implementation of a landscape master plan to the satisfaction of the Director of Planning or of the Town Planning Board;
- (f) the development scheme should conform to the approved conservation plan for the pre-war buildings at 60-66 Johnston Road and 18 Ship Street to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;
- (g) the submission of a revised Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (h) the design and provision of noise mitigation measures to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (i) the permission should cease to have effect on 30.4.2009 unless prior to the said date either the development hereby permitted was commenced or this permission was renewed.

Ref. No. 5
8 Waterloo Road

Case No.: A/K2/159

Approved on 2.8.2003
(Minor Amendments to Approved Development Scheme for Application No. A/K2/136)

Site: LDC Comprehensive Development Scheme at Waterloo Road/ Yunnan Lane, Yau Ma Tei (Area bounded by Waterloo Road, Portland Street, Man Ming Lane, Shanghai Street and Yunnan Lane)

Site Area: 3,869 sq m (about)

Plan: Approved LDC Waterloo Road/Yunnan Lane Development Scheme Plan No. S/K2/LDC1/4

Zoning: "Comprehensive Development Area" ("CDA")

Application: Proposed Minor Amendments to an Approved Scheme for Residential Development with Public Open Space and Preservation of Historical Building

Broad Development Parameters

(a) Total GFA:

Domestic : Not more than 32,012 sq m

Non-domestic : N.A.

(b) No. of Blocks: 2

(c) No. of Storeys: Not exceeding 41

(d) No. of Units: 480 to 576

(e) No. of Car Parking Spaces:

64 (Residential)

10 (Visitor)

8 (Motorcycle)

(f) No. of Loading/Unloading Bays: 2

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
<u>02/08/2003</u>	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(DPO) ON 2.8.2003

The application has been considered under the delegated authority of the Town Planning Board. The proposed amendments are found to be acceptable under the Town Planning Board Guidelines for Amendments to Approved Development Proposals. Its inform the applicant that the application is approved subject to the following conditions :

(a) The submission and implementation of a revised Master Layout Plan to incorporate the approval conditions as stipulated in conditions (c) and (d) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The retention of the red-brick building at 344 Shanghai Street and the safeguarding of the building during the construction period of the proposed development to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;

(c) The design and provision of vehicular entrance, car parking and motorcycle parking spaces and the area designated for parking, loading/unloading and manoeuvring of vehicles to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(d) The submission and implementation of a master landscape plan for the public open space and the ground level landscape area surrounding the red-brick building to the satisfaction of the Director of Planning or of the Town Planning Board;

(e) The design and provision of the public open space and the ground level landscape area surrounding the red-brick building to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;

(f) The submission and implementation of a plan showing the treatment of the building facade of the podium floors of the proposed development facing the red-brick building to the satisfaction of the Director of Planning or of the Town Planning Board;

(g) The diversion of the existing water mains within the application site to the satisfaction of the Director of Water Supplies or of the Town Planning Board;

(h) The submission and implementation of the development programme of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board; and

(i) The permission shall cease to have effect on 2.8.2007 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 6
Parc Parcville

Case No.: A/K2/167

Approved on 24.3.2004
(Minor Amendments to Approved Development Scheme for Application No. A/K2/153)

Site: Area at the Junction of Princess Margaret Road and Wylie Road, Yau Ma Tei, Kowloon (KIL 11118)

Site Area: 36,006 sq m (about)

Plan: Draft Yau Ma Tei Outline Zoning Plan No. S/K2/16

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to an Approved Development Scheme for Residential Development

Broad Development Parameters

(a) Total GFA:

Domestic : Not more than 84,000 sq m

Non-domestic : N.A.

(b) No. of Blocks: 8

(c) No. of Storeys: 25 (above 4 Levels of Carports)

(d) No. of Flats: 700

(e) No. of Car Parking Spaces:

700 (Resident)

40 (Visitor)

37 (Motorcycle)

(f) No. of Loading/ Unloading Spaces: 9

(g) No. of Green Mini-bus Lay-by: 1

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
24/03/2004	Minor Amendment	Approved With Conditions	Director Of Planning

Detailed Information

MA(DRR) MEETING ON 24.3.2004

The District Planning Officer/ Tsuen Wan and West Kowloon, under the delegated authority of the Town Planning Board (TPB), had considered the application. In the light of the justifications given in the application, the application was approved on 3.10.2003 subject to the following conditions:

- (a) The submission and implementation of a revised Master Layout Plan incorporating the approval conditions (b) to (c), (e) to (h) and (k) below to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) The design and provision of the vehicular access, car parking and motorcycle parking spaces and loading/unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) The design and provision of the mini bus lay-by within the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) The design and implementation of widening of Wylie Road and junction improvement schemes at the junctions of Wylie Road/Princess Margaret Road and Wylie Road/Kings Park Rise, as proposed by the applicant in the Traffic Impact Assessment, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (e) The set-back of the northern portion of the site abutting Wylie Road to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (f) The design and provision of emergency vehicular access to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (g) The submission and implementation of a master landscape plan to the satisfaction of the Director of Planning or of the Town Planning Board;
- (h) The design and provision of the podium of the proposed development including the provision of sensitive facade treatment to reduce its longitudinal effect, to the satisfaction of the Director of Planning or of the Town Planning Board;
- (i) The design and provision of a refuse collection point to the satisfaction of the Director of Food and Environmental Hygiene or of the Town Planning Board;
- (j) The design and implementation of a water supply system to the satisfaction of the Director of Water Supplies or of the Town Planning Board;
- (k) The submission and implementation of a development programme of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (l) The permission shall cease to have effect on 24.3.2008 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 7
Harbour Green

Case No.: A/K20/84

Approved on 29.1.2005
(Minor Amendments to Approved Development Scheme for Application No. A/K20/52)

Site: Comprehensive Development Area at Airport Railway Olympic Station, West Kowloon Reclamation

Site Area: 17,192 sq m (about)

Plan: Draft South West Kowloon Outline Zoning Plan No. S/K20/15

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to an Approved Scheme for Comprehensive Development (Site D only)

Broad Development Parameters

(a) Total GFA:

Domestic : Not more than 103,152 sq m

Non-domestic : N.A.

(b) No. of Blocks: 5

(c) No. of Domestic Storeys:

Not exceeding 41 (Tower 1 & 2)

Not exceeding 46 (Tower 3)

Not exceeding 48 (Tower 5 & 6))

(d) No. of Units: Not more than 1,526

(e) No. of Car Parking Spaces:

242 - 266 (Residential)

25 (Visitors)

2 (Kindergarten)

(f) No. of Motor Cycle Parking Spaces: 14

(g) No. of Lay-bys:

2 (Taxi for Kindergarten)

2 (School bus for Kindergarten)

2 (Shuttle bus)

(h) No. of Loading/Unloading Bays: 5

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
29/01/2005	Minor Amendment	Approved With Conditions	Director Of Planning

Detailed Information

MA(DRR) ON 29.1.2005

The Director of Planning, under the delegated authority of the Town Planning Board (TPB), has considered the application. In the light of the reasons given in the application, the application was approved on 29.1.2005 subject to the following conditions:

- (a) The submission and implementation of a revised Master Layout Plan, incorporating the approval conditions (b) to (e) and (g) to (j) below, to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) The submission of a revised visual impact assessment with variation of building heights to minimise the visual impacts of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board;
- (c) The design and provision of vehicular access arrangement including vehicular ingress/egress points and internal vehicular access roads, parking and loading/unloading facilities and lay-bys within the development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) The design and provision of a pedestrian circulation system, including footbridges and entrances to the Mass Transit Railway (MTR) Olympic Station, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (e) The design and provision of a continuous and elevated walkway system, on the podium level with 24-hour access and disabled lifts, linking Site D to the MTR station, the adjacent hinterland to the east and the proposed footbridge in the north to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (f) The design, provision and implementation of traffic management and improvement measures (including road widening, junction improvement works), as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (g) The submission and implementation of a landscape master plan to the satisfaction of the Director of Planning or of the Town Planning Board;
- (h) The provision of kindergarten facilities within the proposed development to the satisfaction of the Director of Education or of the Town Planning Board;
- (j) The provision of emergency vehicular access, water supplies for firefighting and fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (j) The design of the building to incorporate noise mitigation measures to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (k) The permission shall cease to have effect on 29.1.2009 unless prior to the said date either the developments hereby permitted is commenced or this permission is renewed.

Ref. No. 8
Manhattan Hill

Case No.: A/K16/27

MPC on 28.5.2004

Site: Lai Chi Kok Kowloon Motor Bus (KMB) Depot, 1 Po Lun Street, Lai Chi Kok (NKML 3)

Site Area: 1.3 ha (about)

Plan: Draft Lai Chi Kok Outline Zoning Plan No. S/K16/13

Zoning: "Comprehensive Development Area" ("CDA")

Application: Proposed Comprehensive Commercial/Residential Development (Amendments to Approved Master Layout Plan)

Broad Development Parameters

(a) Total GFA:

Domestic : 98,964.595 sq m

Non-domestic :

14,559 sq m (KMB HQ)

4,986 sq m (Retail)

(b) No. of Blocks: 4 (Domestic)

(c) No. of Storeys: Maximum 43 above a 5-storey Podium

(d) No. of Flats: 1,100 to 1,200 (assuming 1,136)

(e) No. of Car Parking Spaces:

392 (Residential)

25 (Visitor)

25 (Retail)

(f) No. of Motorcycle Parking Spaces: 45

(g) No. of Loading/Unloading Bays: 10

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
28/05/2004	Application for Planning Permission	Approved With Conditions	Metro Planning Committee

Detailed Information

The 282nd MPC MEETING ON 28.5.2004

The Master Layout Plan (MLP) and the application were approved, under sections 4A and 16 of the Town Planning Ordinance, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

(a) the submission and implementation of a revised MLP to incorporate the approval conditions as stipulated in conditions (b), (e), (f), (h) and (k) to (n) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) the design and provision of Yuet Lun Street widening, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(c) the design and provision of the road widening works at the junction of Lai Chi Kok Road/Yuet Lun Street, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(d) the design and provision of the road widening and signalisation works at the junctions of (i) Yuet Lun Street (south)/Po Lun Street/proposed vehicular exit at Po Lun Street from the private access road; (ii) Lai Chi Kok Road/Po Lun Street; (iii) Lai Chi Kok Road/Broadway; and (iv) Yuet Lun Street/Lai Po Road/Sham Mong Road, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(e) the design, provision and maintenance of footways along Po Lun Street, Broadway (east) and a footpath (3.5m wide) along the southern boundary of the Site, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(f) the design, provision and maintenance of the pedestrian footbridge, with escalator facilities at appropriate landing points and at least 3m wide across Lai Chi Kok Road and Kwai Chung Road connecting the Site with Mei Foo bus terminus and Mei Foo MTR Station, and the provision of a pedestrian footbridge connection point linking with the proposed Regional Stadium, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(g) the implementation of the traffic improvement schemes at the junction of Yuet Lun Street (north)/Po Lun Street and at Yuet Lun Street (north), as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(h) the design, provision and maintenance of a 24-hour public pedestrian passage of minimum clear width of 4m through the G/F of the development linking Po Lun Street and Broadway, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(i) the design and provision of noise mitigation measures as proposed in the noise impact assessment submitted by the applicant to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(j) the design and provision of the sewer connections from the proposed development to the local sewerage system at Po Lun Street and Yuet Lun Street, including the upgrading works to the existing sewerage system, if required, for the handling of additional discharge due to redevelopment, to the satisfaction of the

Director of Drainage Services or of the Town Planning Board;

(k) the provision of emergency vehicular access and fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(l) the design, provision and maintenance of not less than 4,141m² public open space to the satisfaction of the Director of Planning or of the Town Planning Board;

(m) the submission and implementation of a landscape master plan of the proposed development, including a planting strip along the site boundary, with a minimum width of 1.5m along the western and southern sides and 3m along the eastern side, to the satisfaction of the Director of Planning or of the Town Planning Board;

(n) the submission and implementation of the development programme of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board; and

(o) the permission should cease to have effect on 28.5.2008 unless prior to the said date either the development hereby permitted was commenced or this permission was renewed.

Ref. No. 9
Metro Harbour View

Case No.: A/K3/399

Approved on 3.7.2002
(Minor Amendments to Approved Development Scheme for Application No. A/K3/343)

Site: 201 Tai Kok Tsui Road, Kowloon

Site Area: 21,237 sq m (about)

Plan: Draft Mong Kok Outline Zoning Plan No. S/K3/18

Zoning: "Comprehensive Development Area" ("CDA")

Application: Proposed Minor Amendments to Approved Development Scheme for Residential and Commercial Development with Kindergarten, Public Car and Light Goods Vehicle Parking Facilities and Public Open Space

Broad Development Parameters

(a) Total GFA:

Domestic : 159,277.494 sq m

Non-domestic : 31,855.49 sq m

(b) No. of Blocks: 10

(c) No. of Storeys: 49-50

(d) No. of Units: 3,520

(e) No. of Car Parking Spaces:

704 (Residential)

50 (Visitor)

81 (Retail)

70 (Motorcycle)

100 (Public-private car)

130 (Public-Light Good Vehicle)

(f) No. of Loading/Unloading Bays:

10 (Residential)

26 (Commercial)

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
03/07/2002	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

The District Planning Officer, under the delegated authority of the Town Planning Board (TPB), has considered the application. In the light of the reasons given in the application, the application was approved on 7.3.2002 subject to the following conditions :

(a) The submission and implementation of a revised Master Layout Plan to incorporate the approval conditions as stipulated in conditions (b) to (l) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The design and provision of the vehicular accesses to the application site and parking, loading/unloading and lay-by facilities and space for manoeuvring of vehicles to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(c) The provision, management and maintenance of the public car/light goods vehicles parking facilities, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(d) The design and provision of the proposed Fuk Lee Street Extension, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(e) The setting back of the development at ground floor level abutting Fuk Lee Street, the proposed Fuk Lee Street Extension and Tai Kok Tsui Road for road/footpath widening and public light bus lay-by purposes to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(f) The provision and implementation of the junction improvement works necessitated by the proposed development as identified in the traffic impact assessment submission, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(g) The design, provision and maintenance of pedestrian links to the Tung Chau Street Park to the north of the site to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(h) The submission and implementation of a master landscape plan to the satisfaction of the Director of Planning or of the Town Planning Board;

(i) The design and provision of a public open space (9,848 square metres) within the proposed development, as proposed by the applicant, to the satisfaction of the Director of Planning or of the Town Planning Board;

(j) The design and provision of a refuse collection point to the satisfaction of the Director of Food and Environmental Hygiene or of the Town Planning Board;

(k) The design and provision of a kindergarten to the satisfaction of the Director of Education or of the Town Planning Board;

(l) The design and provision of an emergency vehicular access for the proposed development to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(m) The provision of drainage and sewage disposal facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

(n) The submission of a land contamination assessment and the implementation of the recommendations identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(o) The implementation of the development programme of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board; and

(p) The permission shall cease to have effect on 3.7.2006 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref No. 10
Banyan Garden and Liberte

Case No.: A/K20/80

Approved on 23.7.2004
(Minor Amendments to Approved Development Scheme for Application No. A/K20/37)

Site: 855-871 Lai Chi Kok Road, Cheung Sha Wan (NKIL 6320) (Site A)

Site Area: 19,473 sq m (about)

Plan: Draft South West Kowloon Outline Zoning Plan No. S/K20/15

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to an Approved Scheme for Comprehensive Residential and Retail Development

Broad Development Parameters

(a) Total GFA:

Domestic : 145,625 sq m (about)

Non-domestic : 5,799 sq m (about)

(b) No. of Blocks: 7

(c) No. of Storeys: 34 - 49 (over a 4-storey Podium)

(d) No. of Units: 2,528

(e) No. of Car Parking Spaces:

632 (Residential)

29 (Retail)

2 (Community Hall)

140 (Public Lorry)

35 (Motorcycle)

(f) No. of Loading/Unloading Spaces:

7 (Residential)

5 (Retail)

1 (Community Hall)

(g) No. of Lay-bys:

1 (Community Hall)

1 (Bus)

3 (Public Light Bus)

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
23/07/2004	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(DPO) ON 23.7.2004

The District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), under the delegated authority of the Board, has considered the application. The application was approved on 23.7.2004 on the terms of the application as submitted to the Board subject to the following conditions which are the same as the previously approved Master Layout Plan (Application No. A/K20/37) (except that minor modifications have been made to approval conditions (g), (i), (k) and (o); and that approval conditions (h) under Application No. A/K20/37 has been deleted (with the approval conditions following (h) re-numbered)) and advisory clauses (d) and (e) have also been revised: -

(a) The submission and implementation of a revised Master Layout Plan to incorporate the approval conditions as stipulated in conditions (b), (c), (e) to (h) and (k) to (n) below and to include the development programme of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The design and provision of the area designated for parking including 280 public lorry parking spaces; the provision of loading/unloading bays and lay-bys as well as the manoeuvring of vehicles to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(c) The design and provision of the vehicular access points of the proposed development to the satisfaction of the Commissioner for Transport or the Town Planning Board;

(d) The design, provision and implementation of the upgrading of the pedestrian crossings and road widening at the junction of Lai Chi Kok Road/Tung Chau Street/Tai Nan West Street, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(e) The design and provision of the pedestrian links from the northern and southern boundaries of the application site across Lai Chi Kok Road and Sham Shing Road respectively, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(f) The design and provision of 3 green mini-bus lay-bys to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(g) The design and provision of a bus bay with shelter along Lai Chi Kok Road to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(h) The design and provision of the footpaths along Lai Chi Kok Road and Sham Shing Road to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(i) The implementation of remedial measures as identified in the contamination assessment reports and remedial action plans to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(j) The submission of a drainage impact assessment to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

(k) The submission and implementation of a Master Landscape Plan including

detailed landscaping proposals, open spaces and other amenities to the satisfaction of the Director of Planning or of the Town Planning Board;

(l) The set back of the site abutting Lai Chi Kok Road and Sham Shing Road for 3m to facilitate the provision of a tree planting strip along the kerbsides, with underground utility installation underneath to the satisfaction of the Director of Planning or of the Town Planning Board;

(m) The design and provision of a community hall (593 sq. m Net Operational Floor Area) to the satisfaction of the Director of Home Affairs or of the Town Planning Board;

(n) The design, provision and maintenance of the emergency vehicular access to the satisfaction of the Director of Fire Services or of the Town Planning Board; and

(o) The permission shall cease to have effect on 23.7.2008 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 11
Park Island

Case No.: A/I-MWI/38

Use Applied for: Minor Amendments to Approved Comprehensive Residential Development with Ancillary Commercial, Community, Recreational, Transport and Utility Facilities

Location:

Address: Ma Wan Island

Lot Number: MWL 392 AND GOVT LAND

Statutory Plan: S/I-MWI/11 (Ma Wan OZP)

Detailed Information:

Site Area (sq.m): 212,000.00

Proposed Number of Unit: 5,289.00

Number of Storeys: 7 - 27

GFA Applied for (sq.m): 348400

Zoning: Comprehensive Development Area

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
17/06/2005	Minor Amendment	Deferred	Director Of Planning
21/07/2006	Minor Amendment	Approved With Conditions	Director Of Planning

Detailed Information

Under section 2(5)(b) of the Town Planning Ordinance, the Director of Planning, under the delegated authority of the Town Planning Board (the TPB), has considered the application. In the light of the justifications given in the application, the application was approved on 21.7.2006 subject to the following conditions:

- (a) the submission and implementation of a revised MLP, taking into account condition (c) below to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission and implementation of a revised landscape master plan to the satisfaction of the Director of Planning or of the TPB;
- (c) the design and provision of emergency vehicular access to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (d) the submission and implementation of contingency plans for traffic arrangement in case of inclement weather or other emergency situations to the satisfaction of the Commissioner for Transport and Director of Marine of the TPB.

The planning permission shall be valid until 2.11.2008; and after the said date, the permission shall cease to have effect unless before the said date either the development hereby permitted was commenced or the permission was renewed.

Ref. No. 12
Nob Hill and Lai Yan Court

Case No.: A/KC/268

Use Applied for: Minor Amendments to the Approved Development Scheme for Comprehensive Residential Development.

Location:

Address: South of Lai King Hill Road & Kau Wa Keng, Kwai Chung

Lot Number: KCTL 474 (SITE B) & GOVT LAND (SITE A)

Statutory Plan: S/KC/17 (Kwai Chung OZP)

Detailed Information:

Site Area (sq.m): 42,744.00

Proposed Number of Unit: 4,130.00

Number of Storeys: 35 - 41

GFA Applied for (sq.m): 262380

Zoning: Comprehensive Development Area

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
<u>22/03/2002</u>	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

The District Planning Officer/ Tsuen Wan and West Kowloon (DPO/TWK), under delegated authority of the board, has considered the application, the application was approved on 22.03.2002 on the terms of the application as submitted to the board subject to the following conditions which are same as the previously approved Master Layout Plan (Application No. A/KC/242):

(a) The submission and implementation of a revised Master Layout Plan to take into account the approval conditions (b) to (h) below and to include the development programme for the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The design and provision of the road improvement proposals identified in the traffic impact assessment to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(c) The design and provision of vehicular access to the development, in particular the access for servicing vehicles to commercial podium, and the internal roads to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(d) The setting back of the lot boundary along Lai King Hill Road to allow for future widening to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(e) The provision of motor cycle parking spaces according to a rate of 5-10% of that of private cars to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(f) The provision of parking and loading/unloading facilities within the proposed development for the primary school to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(g) The design and provision of the public transport interchange consisting of the bus terminus, taxi stand and maxi-cab stand to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(h) The design and provision of an emergency vehicular access with adequate turning facility and fire hydrants to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(i) The diversion of drainage and sewerage facilities affected by the proposed development to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

(j) The diversion of water mains affected by the proposed development to the satisfaction of the Director of Water Supplies or of the Town Planning Board;

(k) The submission and implementation of a Master Landscape Plan to include landscaping proposals for the podium deck of Site B and roadside of Ching Cheung Road to the satisfaction of the Director of Planning or of the Town Planning Board; and

(l) The permission shall cease to have effect on 22.03.2005 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 13
Golf Parkview

Case No.: A/FSS/156

RNTPC on 5.12.2003

Site: Sheung Shui Lot 2RP in DD 92, Sheung Shui

Site Area: 29,306 sq m (about)

Plan: Draft Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/11

Zoning: "Comprehensive Development Area" ("CDA")

Application: Proposed Residential Development (Minor Amendments to an Approved Master Layout Plan)

Broad Development Parameters

(a) Total GFA:

Domestic : 25,900 sq m

Non-domestic : N.A.

(b) No. of Blocks:

House : 7

Duplex Block Type A : 28 (with 2 Duplexes/Block)

Duplex Block Type B : 11 (with 2 Duplexes/Block)

Duplex Block Type C : 5 (with 2 Duplexes/Block)

(c) No. of Storeys:

House : 3 (over 1-storey Carport)

Duplex Block : 4 (over 1-storey Carport)

(d) No. of Units:

House : 7

Duplex Block : 88

(e) No. of Car Parking Spaces: 190

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
05/12/2003	Minor Amendment	Approved With Conditions	Rural & NT Planning Committee

Detailed Information

271st RNTPC MEETING ON 5.12.2003

The application was approved on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

(a) the submission of a revised Master Layout Plan (MLP) by taking into account the conditions (b), (c) and (f) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) the submission and implementation of landscaping and tree preservation proposals to the satisfaction of the Director of Planning or of the Town Planning Board;

(c) the design and provision of vehicular access road, parking spaces, loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(d) the implementation of the accepted mitigation measures on traffic noise impact and sewage disposal facilities to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(e) the implementation of the accepted mitigation measures on drainage impact to the Director of Drainage Services or of the Town Planning Board;

(f) the submission of an implementation programme to the satisfaction of the Director of Planning or of the Town Planning Board;

(g) the surrender of land from the roundabout at the ingress/egress to the west of the application site to the Government, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and

(h) the permission should cease to have effect on 5.12.2007 unless prior to the said date either the development hereby permitted was commenced or this permission was renewed.

Ref. No. 14
Parcville

Case No.: A/YL/93

Use Applied for: Minor Amendments to a Comprehensive Residential Development.
Previously Approved under Application No. A/YL/57

Location:

Address: Tak Yip Street, Area 16, Yuen Long New Town

Lot Number: YLTL 506

Statutory Plan: S/YL/11 (Yuen Long OZP)

Detailed Information:

Site Area (sq.m): 30,838.00

Proposed Number of Unit: 1,618.00

Number of Storeys: 14 - 16

GFA Applied for (sq.m): 94614

Zoning: Comprehensive Development Area

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
<u>15/03/2002</u>	Minor Amendment	Approved With Conditions	Rural & NT Planning Committee

Detailed Information

The Town Planning Board (the Board) approved the application for permission under section 16 of the Town Planning Ordinance on the terms of the application as submitted to the Board and subject to the following conditions :

(a) the submission and implementation of a revised Master Layout Plan (MLP) to take into account condition (e) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) the submission and implementation of a revised master landscape plan to the satisfaction of the Director of Planning or of the Town Planning Board;

(c) the design and implementation of improvement works to the junction between Yuen Long On Lok Road/Long Yip Street/Po Yip Street, as necessitated by the proposed development, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(d) the submission of a sewerage impact assessment and to implement suitable mitigation measures identified therein, as necessitated by the proposed development, to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(e) the provision of emergency vehicular access, water supplies for fire fighting, fire services installations and adequate turning facility for the manoeuvring of a 12m long fire appliance within the application site to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(f) the design and implementation of the "Open Space" site to the north-west of the application site, as proposed by you, to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;

(g) the submission of an implementation programme, with phasing proposals to tie in with the completion of major infrastructure facilities serving the proposed development and the improvement works specified in condition (c) above, to the satisfaction of the Director of Planning or of the Town Planning Board; and

(h) the permission shall cease to have effect on 15.3.2005 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 15
Vision City

Case No.: A/TW/374

Use Applied for: Minor Amendments to an Approved Development Scheme
-Comprehensive Residential and Commercial Development with Public Open Space
and Government Institution or Community Facilities

Location:

Address: Area bounded by Sha Tsui Road, Tai Ho Road, Yeung Uk Road and Wo Tik Street, Tsuen Wan

Lot Number: TWTL 398

Statutory Plan: S/TW/20 (Tsuen Wan OZP)

Detailed Information:

Site Area (sq.m): 20,300.00

Proposed Number of Unit: 1,466.00

Number of Storeys: 44 - 46

GFA Applied for (sq.m): 130200

Zoning: Road, Comprehensive Development Area

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
04/07/2005	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(DPO) MEETING ON 4.7.2005

The application has been considered under the delegated authority of the Town Planning Board, The application was approved subject to the following conditions:

- (a) the submission and implementation of a revised MLP to take into account the approval conditions as stated in paragraphs (b) to (i) below and to include the development programme of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the design and provision of the public light bus terminus and taxi lay-by to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the design and provision of vehicular access points to the development as well as parking facilities and loading/unloading spaces in accordance with the Hong Kong Planning Standards and Guidelines to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) the setting back of the site boundaries to facilitate the improvement of junction between Sha Tsui Road/Tai Ho Road and road widening for Wo Tik Street to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (e) the design and implementation of the footbridges across Yeung Uk Road, Tai Ho Road and Sha Tsui Road to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board;
- (f) the design and provision of the social welfare facilities, including the Hostel for Moderately Mentally Handicapped and the District Elderly Community Centre to the satisfaction of the Director of Social Welfare or of the Town Planning Board;
- (g) the design and provision of public open space and amenity areas, and to open them for public enjoyment and access from Wo Tik Street and Sha Tsui Road at reasonable hours to the satisfaction of the Director of Planning or of the Town Planning Board;
- (h) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board;
- (i) the submission of a revised Traffic Impact Assessment for the development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (j) the permission should cease to have effect on 4.7.2009 unless prior to the said date either the development hereby permitted was commenced or this permission was renewed.

Ref. No. 16
South Hillcrest

Case No.: A/TM/317

RNTPC on 17.7.2004

Site: Tuen Mun Town Lot 443, Area 52, Fu Tei, Tuen Mun

Site Area: 6,320 sq m (about)

Plan: Draft Tuen Mun Outline Zoning Plan No. S/TM/19

Zoning: "Comprehensive Development Area" ("CDA")

Application: Proposed Comprehensive Residential Development (Minor Amendments to a Development Scheme Previously Approved under Application No. A/TM/298)

Broad Development Parameters

(a) Total GFA:

Domestic : Not more than 18,960 sq m

Non-domestic : N.A.

(b) No. of Blocks: 1

(c) No. of Storeys: 32 Storeys (over a Lobby Floor)

(d) No. of Units: 310 - 320

(e) No. of Car Parking Spaces:

52 - 54 (Residents)

5 (Visitors)

6 (Motorcycle)

20 (Bicycle)

(f) No. of Loading/Unloading Spaces: 1

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
17/07/2004	Application for Planning Permission	Approved With Conditions	Rural & NT Planning Committee

Detailed Information

285th RNTPC MEETING ON 17.7.2004

The Master Layout Plan (MLP) and the application, were approved under sections 4A and 16 of the Town Planning Ordinance, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

(a) the submission and implementation of a revised MLP to take into account conditions (b), (d) and (e) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) the submission and implementation of landscaping proposals, including a tree preservation plan, to the satisfaction of the Director of Planning or of the Town Planning Board;

(c) the submission of a Drainage Impact Assessment Review and the implementation of flood mitigation measures and provision of drainage facilities identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

(d) the provision of emergency vehicular access to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(e) the submission of an implementation programme to the satisfaction of the Director of Planning or of the Town Planning Board; and

(f) the permission should cease to have effect on 17.7.2008 unless prior to the said date either the development hereby permitted was commenced or this permission was renewed.

Ref. No. 17
Aegean Coast

Case No.: A/TM/288

RNTPC on 26.7.2002

Site: Lots 311, 315RP, 316, 317, 318, 321, 323, 330, 331, 332, 333, 335, 336, 337, 338, 339, 340, 341, 343, 345, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362 and 363 in DD 379 and Adjoining Government Land, near Siu Sau Village, Area 55, Tuen Mun

Site Area: 25,553.12 sq m (about)

Plan: Draft Tuen Mun Outline Zoning Plan No. S/TM/16

Zoning: "Comprehensive Development Area" ("CDA") and "Residential (Group B)" ("R(B)")

Application: Proposed Amendments to a Comprehensive Residential Development Scheme (with Club House and Ancillary Recreational Facilities) Previously Approved under Application No. A/TM/284

Broad Development Parameters

(a) Total GFA:

Domestic : 33,219.06 sq m

Non-domestic : 3,433 sq m (club house)

(b) No. of Blocks: 4

(c) No. of Storeys: 21 over G/F and 1 carpark basement

(d) No. of Units: 672

(e) No. of Car Parking Spaces:

112 (residential)

20 (visitors)

18 (motorcycle)

(f) No. of Loading/Unloading Spaces: 5

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
<u>26/07/2002</u>	Application for Planning Permission	Approved With Conditions	Rural & NT Planning Committee

Detailed Information

The Town Planning Board (the Board) approved the application on 26.7.2002 for permission under section 16 of the Town Planning Ordinance on the terms of the application as submitted to the Board and subject to the following conditions :

(a) The submission and implementation of a revised Master Layout Plan (MLP) to take into account conditions (b), (c) and (e) to (l) below to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The submission and implementation of a Master Landscape Plan, including a tree survey report and a tree preservation plan, to the satisfaction of the Director of Planning or of the Town Planning Board;

(c) The submission and implementation of a development and phasing programme for the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board;

(d) The submission of a revised drainage impact assessment and the provision of flood mitigation measures and drainage facilities identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

(e) The provision of vehicular access to the site and parking spaces to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(f) The provision of emergency vehicular access, water supplies for fire fighting and fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(g) The provision of vehicular access to Lots 319, 320 and 334 in DD 379 to the satisfaction of the Director of Lands or of the Town Planning Board;

(h) The provision of emergency vehicular access/van track to the east and south-east of the proposed development, as proposed by you, to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(i) The provision of noise barrier or appropriate noise mitigation measures to mitigate against traffic noise from Tuen Mun Road and Castle Peak Road to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(j) The re-provisioning of the Refuse Collection Point and public toilet to the satisfaction of the Director of Food and Environmental Hygiene or of the Town Planning Board;

(k) The provision of landscaping and visual mitigation measures to minimise the potential adverse visual impact of the proposed noise barrier along Castle Peak Road to the satisfaction of the Director of Planning or of the Town Planning Board;

(l) The setting back of the north-eastern boundary of the application site to avoid encroachment onto the future Tuen Mun Road widening project limit to the satisfaction of the Director of Highways or of the Town Planning Board; and

(m) The permission shall cease to have effect on 26.7.2006 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 18
The Sherwood

Application No.: A/TM-LTYT/110

Approved on 16.4.2003
(Minor Amendments to Approved Development Scheme for Application No. A/TM-LTYT/100)

Site: Lot 2860 and Adjoining Government Land in DD 130, Lam Tei, Tuen Mun

Site Area: 37,870 sq m (about)

Plan: Approved Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYT/3

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to Approved Development Scheme for Comprehensive Residential/Commercial/Community Development

Broad Development Parameters

(a) Total GFA:

Domestic : 74,946.199 sq m

Non-domestic : 3,840 sq m

(b) No. of Blocks: 12

(c) No. of Storeys:

Block 1-6 17 Storeys

Block 7-15 16 Storeys

(over a 1-level clubhouse or carpark or retail podium)

(d) No. of Units: 1,576

(e) No. of Car Parking Spaces:

308 (Car)

33 (Motorcycle)

42 (Bicycle)

11 (Lorry)

(f) No. of Loading/Unloading Bays: 12

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
16/04/2003	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(DPO) MEETING ON 16.4.2003

The District Planning Officer/ Tuen Mun and Yuen Long, under the delegated authority of the Town Planning Board, has considered the application. In the light of the justifications given in the application, the application was approved on 16.4.2003 subject to the following conditions, which are the same as those under the previously approved scheme (A/TM-LTY/100):

(a) The submission and implementation of a revised Master Layout Plan (MLP) to take into account conditions (b), (c), (e), (f), (g), (h), (i) and (j) to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The submission and implementation of a revised Master Landscape Plan including a tree survey and a tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board;

(c) The submission of a revised car parking layout to provide a more pedestrian friendly environment and better open space design to the satisfaction of the Director of Planning or of the Town Planning Board;

(d) The submission of a revised drainage impact assessment and the provision of drainage facilities and flood mitigation measures identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

(e) The provision of noise mitigation measures to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(f) No air sensitive uses should be located within the area coloured grey as shown on Plan A-2a of the Town Planning Board Paper unless appropriate mitigation measures are implemented to ensure that the proposed development would not be subject to any adverse environmental impacts;

(g) The provision of a free standing market site, with a site area not less than 1,000 sqm and with loading/unloading bays for goods, vehicles, refuse collection vehicles and pedestrian access, as proposed by you, to the satisfaction of the Director of Food and Environmental Hygiene or of the Town Planning Board;

(h) The design and provision of a public open space of not less than 7,080 sqm, as proposed by the applicant, to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;

(i) The provision of emergency vehicular access, water supplies for fire-fighting and fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(j) The provision of traffic facilities within the site to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(k) The submission and implementation of a development and phasing programme for the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board; and

(l) The permission shall cease to have effect on 16.4.2007 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 19
Yoho Town

Case No.: A/YL/101

Approved on 9.12.2002
(Minor Amendments to Approved Development Scheme for Application No. A/YL/87)

Site: YLTL 503RP & Extension, Area 12, Yuen Long New Town

Site Area: 21,933sq m (about)

Plan: Draft Yuen Long Outline Zoning Plan No. S/YL/11

Zoning: "Comprehensive Development Area" ("CDA")

Application: Proposed Amendments to Approved Master Layout Plan for Comprehensive Residential Development

Broad Development Parameters

(a) Total GFA:

Domestic : 109,665 sq m

Non-domestic : 3,290 sq m

(b) No. of Blocks: 8

(c) No. of Storeys: Between 32 to 37 Domestic Storeys

(d) No. of Units: 2,156 - 2,356

(e) No. of Car Parking Spaces: 371 - 455 (Residents)
40 (Visitors)

(f) No. of Motorcycle Parking Spaces: 21 - 25

(g) No. of Loading/Unloading Spaces: 8

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
09/12/2002	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

The District Planning Officer/Tuen Mun and Yuen Long, under the delegated authority of the Town Planning Board, has considered the application. In the light of the reason(s)/ justification(s) given in the application, It is to inform the applicant that the application, together with the submitted Master Layout Plan (MLP) was approved under section 4A(2) of the Town Planning Ordinance on 9.12.2002 subject to the following conditions :

(a) The submission and implementation of a revised Master Layout Plan (MLP) to take into account conditions (c) to (e) to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The submission and implementation of a revised Master Landscape Plan including tree survey and tree felling proposal to the satisfaction of the Director of Planning or of the Town Planning Board;

(c) The design and provision of the proposed footbridge across Yuen Lung Street, as proposed by the applicant, to the satisfaction of the Director of Highways or of the Town Planning Board;

(d) The design and provision of the car parking and loading/unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(e) The design and provision of emergency vehicular access, water supplies for fire-fighting and fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(f) The submission of a revised sewerage impact assessment and provision of temporary sewage treatment/discharge facilities to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and

(g) The permission shall cease to have effect on 9.12.2006 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 20
Green Orchid

Case No.: A/YL-PS/199

Approved on 10.11.2004
(Minor Amendments to Approved Development Scheme for Application No. A/YL-PS/109)

Site: Lots 565 and 566RP and Adjoining Government Land in DD 122, (Now Known as Lot 1738 in DD 122), Ping Shan, Yuen Long

Site Area: 3,290 sq m (about)

Plan: Draft Ping Shan Outline Zoning Plan No. S/YL-PS/10

Zoning: "Comprehensive Development Area" ("CDA")

Application: Minor Amendments to an Approved Development Proposal for Residential Development

Broad Development Parameters

(a) Total GFA:

Domestic : Not more than 3,290 sq m

Non-domestic : N.A.

(b) No. of Blocks: 2

(c) No. of Storeys: 5 (including 1-storey Carport)

(d) No. of Units: 49

(e) No. of Car Parking Spaces:

49 (Residents)

5 (Visitors)

5 (Motorcycle)

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
10/11/2004	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(DPO) MEETING ON 10.11.2004

The District Planning Officer/ Tuen Mun and Yuen Long, under the delegated authority of the Town Planning Board, had considered the application, the application was approved on 10.11.2004 on the terms as submitted and subject to the following conditions :

- (a) the submission and implementation of landscaping proposals including tree preservation and transplanting to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission of a Drainage Impact Assessment and the provision of flood mitigation measures and other storm water drainage facilities identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the submission of a revised Traffic Impact Assessment and the implementation of improvement measures therein to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) the provision of vehicular access arrangement and car parking facilities including motorcycle parking spaces to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and
- (e) the permission shall cease to have effect on 10.11.2008 unless prior to the said date either the development permitted is commenced or the permission is renewed.

Ref. No. 21
Bellagio

Case No.: A/TWW/64

Approved on 25.7.2002
(Minor Amendments to Approved Development Scheme for Application No. A/TWW/56)

Site: Lot 269 in DD 390 and adjoining Government land, Sham Tseng, Tsuen Wan

Site Area: 52,604.5 sq m (about)

Plan: Draft Tsuen Wan West Outline Zoning Plan No. S/TWW/12

Zoning: "Comprehensive Development Area" ("CDA")

Application: Proposed Minor Amendments to Approved Development Scheme for Comprehensive Commercial and Residential Development

Broad Development Parameters

(a) Total GFA:

Domestic : 257,234.1 sq m

Non-domestic : 10,998 sq m

(b) No. of Blocks: 8

(c) No. of Storeys: 52

(d) No. of Units: 3,302

(e) No. of Car Parking Spaces: 2,773
277 (Motorcycle)

(f) No. of Loading/Unloading Bays: 11

(g) Transport Terminus Buses and Taxis Bays: 4

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
<u>25/07/2002</u>	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

The District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK) under the delegated authority of the Board, has considered the application. The application was approved on 25.7.2002 on the terms of the application as submitted to the Board and subject to the following conditions :

- (a) The implementation of the revised MLP to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) The implementation of decking the two adjacent nullahs to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) The provision of a properly formed and serviced primary school site to the satisfaction of the Director of Education or of the Town Planning Board;
- (d) The location of the proposed kindergarten to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (e) The submission of a revised Traffic Impact Assessment (TIA) and the implementation of the road improvements as necessitated by the proposed development and identified in the TIA, at the applicants cost, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (f) The design and provision of the vehicular access, pedestrian circulation, car-parking provision and loading/unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (g) The design and provision of the connection to the proposed footbridge to be constructed across Castle Peak Road at the eastern end of the site to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (h) The provision and maintenance of the transport terminus for public use to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (i) The provision of an emergency vehicular access, water supplies for fire-fighting and fire services installations for the proposed development to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (j) The provision and maintenance of the landscaped areas on the decked nullah areas as well as their linkages with the surrounding areas and the proposed waterfront promenade and to open the landscaped areas for public access and enjoyment to the satisfaction of the Director of Regional Services or of the Town Planning Board;
- (k) The provision and maintenance of the waterfront promenade and to open it for public access and enjoyment to the satisfaction of the Director of Regional Services or of the Town Planning Board;
- (l) The submission and implementation of a revised master landscape plan to include the landscaped areas on the decked nullah areas, the proposed waterfront promenade and street tree planting proposals and to ensure that all the open spaces and the waterfront promenade in the development would be continuously linked and linked with those in the adjoining residential developments, to the satisfaction of the Director of Planning or of the Town Planning Board;

(m) The design and ventilation of the car park and transport terminus to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(n) The design and provision of a day nursery and a children and youth centre cum study/reading room to the satisfaction of the Director of Social Welfare or of the Town Planning Board;

(o) The provision and operation of proper on-site sewage treatment and disposal facilities for the proposed development prior to the availability of, and the connection to, the public sewerage system in Sham Tseng to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

(p) The submission and implementation of a revised development programme indicating the timing and phasing of the comprehensive redevelopment to the satisfaction of the Director of Planning or of the Town Planning Board; and

(q) The permission shall cease to have effect on 25.7.2002 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 22
Indi Home

Case No.: A/TW/363

Approved on 1.4.2005
(Minor Amendments to Approved Development Scheme for Application No. A/TW/283)

Site: 124-142 Yeung Uk Road, Tsuen Wan (TWTL 146)

Site Area: 5,583 sq m (about)

Plan: Draft Tsuen Wan Outline Zoning Plan No. S/TW/20

Zoning: "Comprehensive Development Area (1)" ("CDA(1)")

Application: Minor Amendments to an Approved Scheme for Proposed Comprehensive Commercial and Service Apartment Development

Broad Development Parameters

(a) Total GFA:

Domestic : N.A.

Non-domestic : 54,406 sq m

(b) No. of Blocks: 1

(c) No. of Storeys: 56

(d) No. of Service Apartment Units: 960

(e) No. of Car Parking Spaces: 200

(f) No. of Motor-cycle Parking Spaces: 20

(g) No. of Loading/Unloading Bays: 7

(h) No. of Lay-bys: 2

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
01/04/2005	Minor Amendment	Approved With Conditions	District Planning Officer

Detailed Information

MA(DPO) MEETING ON 1.4.2005

The District Planning Officer/ Tuen Wan and West Kowloon (DPO/TWK) under the delegated authority of the Board, has considered the application. The application was approved on 1.4.2005 on the terms of the application as submitted to the Board and subject to the following conditions :

(a) The submission and implementation of a revised Master Layout Plan to take into account conditions (b) to (i) below and to indicate the development programme of the proposed development to the satisfaction of the Director of Planning or of the Town Planning Board;

(b) The design and provision of appropriate vehicular accesses, car-parking spaces and motor-cycle parking spaces, and loading/unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(c) The setting back of the site boundary abutting Fui Yiu Kok Street to the satisfaction of the Commissioner for Transport or of the Town Planning Board;

(d) The provision and maintenance of the ground floor landscaping area integrating with the existing public lane and to open the area for public access to the satisfaction of the Director of Highways or of the Town Planning Board;

(e) The design, implementation and maintenance of a footbridge connecting the two parts of the application site to the satisfaction of the Director of Highways or of the Town Planning Board;

(f) The provision of the footbridge connections to the future adjacent developments to the west of the application site and across Yeung Uk Road to the satisfaction of the Director of Highways or of the Town Planning Board;

(g) The calculation of the additional gross floor area for the proposed area to be surrendered in accordance with the intention of the Building (Planning) Regulation 22(2)b to the satisfaction of the Director of Buildings or of the Town Planning Board;

(h) The design and provision of emergency vehicular access to the satisfaction of the Director of Fire Services or of the Town Planning Board;

(i) The submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and

(j) The permission shall cease to have effect on 1.4.2009 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

Ref. No. 23
Villa Esplanada

Case No.: A/TY/75

Use Applied for: Minor Amendments to an Approved Scheme for Operation of a Child Care Centre inside a Kindergarten

Location:

Address: Level 1, Commercial Building of Phase 1, Villa Esplanada, Tsing Yi

Lot Number: TYTL 129

Statutory Plan: S/TY/17 (Tsing Yi OZP)

Detailed Information:

Site Area (sq.m): 41,500.00

Proposed Number of Unit: 2,824.00

Number of Storeys: 35 - 40

GFA Applied for (sq.m): 209180

Zoning: Comprehensive Development Area, Government, Institution or Community, Open Space

Decision Meeting(s):

Decision Date (DD/MM/YYYY)	Type of consideration	Decision	Authority
<u>16/05/2002</u>	Minor Amendment	Approved With Conditions	Director Of Planning

Detailed Information

The Director of Planning, under the delegated authority of the Board, has considered the application. In the light of the reasons given in the application, the TPB pleased to inform the applicant that the application was approved on 16.5.2002 subject to the following condition:

"the permission shall cease to have effect on 16.5.2006 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed"

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