

**Minutes of 1027th Meeting of the
Town Planning Board held on 18.1.2013**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr. Thomas T.M. Chow

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Prof. S.C. Wong

Mr. Timothy K.W. Ma

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr. C.P. Lau

Ms. Julia M.K. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Dr. W.K. Yau

Ms. Bonnie J.Y. Chan

Professor K.C. Chau

Mr. H.W. Cheung

Dr. Wilton W.T. Fok

Mr. Ivan C.S. Fu

Mr. Sunny L.K. Ho

Mr. Lincoln L.H. Huang

Ms. Janice W.M. Lai

Mr. Dominic K.K. Lam

Mr. Patrick H. T. Lau

Ms. Christina M. Lee

Mr. H. F. Leung

Mr. Stephen H.B. Yau

Principal Assistant Secretary for Transport and Housing
Miss Winnie Wong

Assistant Director of Environmental Protection
Mr. C.W. Tse

Assistant Director (2), Home Affairs Department
Mr. Eric K.S. Hui

Deputy Director of Lands
Mr. Jeff Y.T. Lam

Director of Planning
Mr. K.K. Ling

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

In Attendance

Assistant Director of Planning/Board
Ms. Christine Tse

Chief Town Planner/Town Planning Board
Miss H.Y. Chu (am)
Mr. Edward Lo (pm)

Senior Town Planner/Town Planning Board
Ms. Johanna W.Y. Cheng (am)
Mr. Jerry Austin (pm)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1026th Meeting held on 4.1.2013

[The meeting was conducted in Cantonese.]

1. The minutes of the 1026th Meeting held on 4.1.2013 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

(i) Approval of Draft Outline Zoning Plans (OZPs)/ Development Plan /
Development Permission Area (DPA) Plans

2. The Secretary reported that on 8.1.2013, the Chief Executive in Council (CE in C) approved the South West Kowloon OZP (renumbered as S/K20/28), West Kowloon Cultural District Development Plan (renumbered as S/K20/WKCD/2) and the Lin Ma Hang DPA Plan (renumbered as DPA/NE-LMH/2) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance). The approval of the above plans was notified in the Gazette on 18.1.2013.

(ii) Reference Back of Approved OZP

3. The Secretary reported that on 8.1.2013, the CE in C referred the Fanling/Sheung Shui OZP No. S/FSS/16 for amendment under section 12(1)(b)(ii) of the Ordinance. The reference back of the above OZP was notified in the Gazette on 18.1.2013.

(iii) Town Planning Appeal Decision Received

Town Planning Appeal No. 7 of 2011

Temporary Open Storage of Construction Machinery and Mechanical Spare Parts for a Period of 3 Years in “Agriculture” Zone, Lot 529 S.A (Part) in D.D. 84, Hung Lung Hang (Application No. A/NE-HLH/17)

4. The Secretary reported that the subject appeal was against the decision of the Town Planning Board to reject on review an application (No. A/NE-HLH/17) for temporary open storage of construction machinery and mechanical spare parts for a period of three years in the “Agriculture” (“AGR”) zone on the Hung Lung Hang Outline Zoning Plan (OZP).

5. The appeal was heard by the Town Planning Appeal Board (TPAB) on 24.9.2012. On 27.12.2012, the TPAB dismissed the appeal on a majority of 4 to 1. The main considerations of the majority view of the TPAB were:

- (i) the appellant did not raise objection to the “AGR” zone when the Hung Lung Hang Development Permission Area Plan was published for public inspection for two months on 5.3.1999;
- (ii) according to the Explanatory Statement (ES) of the Hung Lung Hang OZP, the general planning intention of the Hung Lung Hang Development Permission Area (the Area) was primarily to conserve the natural landscape, to maintain the rural character of the Area and to retain both active and fallow agricultural land for agricultural uses;
- (iii) according to the ES of the Hung Lung Hang OZP, the agricultural land in the Area had been classified as good quality agricultural land by the Agriculture, Fisheries and Conservation Department;
- (iv) the subject site had been zoned “AGR” and, according to the planning intention of the “AGR” zone, the site should be retained and safeguarded for agricultural purposes. The proposal to change the use of the site for temporary open storage of construction machinery and mechanical spare parts was clearly not in line with the planning intention of the “AGR”

zone;

- (v) the appellant had failed to demonstrate that the proposed development would not have adverse environmental impact on the surrounding areas nor that the traffic problem caused by the narrow and substandard vehicular access to the site could be addressed. There were public comments that heavy vehicles used for delivery of materials would pose hazards to pedestrians and other vehicles, and the proposed use would also cause environmental blight. As the nearest domestic structure was only about 10m from the site, there was possibility that the residents living in the domestic structure would lodge a complaint in future even though no complaint was received in the past three years. The proposed development was clearly not in compliance with the 'Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' (TPB PG-No. 13E); and
- (vi) the appellant quoted planning application No. A/NE-TKL/334 as a precedent case for a similar use which was approved by the Board. However, the TPAB noted that the locations of the two sites were different as the other case was located along a main road and fell within Category 2 areas according to the TPB PG-No. 13E. Besides, the appellant had confirmed her intention to use the land for open storage of construction machinery and mechanical spare parts on a long-term basis, which apparently was not in line with the planning intention of the "AGR" zone.

6. The TPAB also noted that a minority view of the TPAB considered that as the site had been used for open storage for some time, there was little chance for the site to be rehabilitated for agricultural use; the granting of planning approval with conditions would help strike a proper balance between the use of the land and environmental conservation; and the proposed temporary use of the site would not affect the planning intention of the "AGR" zone.

7. A copy of the TPAB's decision and the Summary of Appeal were sent to Members for reference on 16.1.2013.

[Mr. Rock C.N. Chen, Mr. Dominic K.K. Lam and Mr. H.F. Leung arrived to joint the meeting at this point.]

(i v) Town Planning Appeal Abandoned

Town Planning Appeal No. 3 of 2012

Temporary Open Storage of Sand and Bricks for a Period of 3 Years in “Residential (Group D)” Zone, Lot 55 (Part) in D.D. 108, Ta Shek Wu, Pat Heung, Yuen Long, New Territories (Application No. A/YL-PH/623)

8. The Secretary reported that on 8.3.2012, the appellant lodged an appeal to the Appeal Board Panel (Town Planning) (Appeal Board Panel) against the decision of the Board on 23.12.2011 to reject on review the planning application No. A/YL-PH/623 for temporary open storage of sand and bricks for a period of three years. The appeal site was zoned “Residential (Group D)” on the Pat Heung Outline Zoning Plan. On 12.12.2012, the appeal was abandoned by the appellant on his own accord. On 7.1.2013, the Appeal Board Panel formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

Appeal Statistics

9. The Secretary reported that as at 18.1.2013, 21 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	:	29
Dismissed	:	126
Abandoned/withdrawn/invalid	:	163
Yet to be heard	:	21
Decision outstanding	:	3
Total	:	342

[Prof. P.P. Ho arrived to join the meeting at this point.]

Sai Kung and Islands

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Section 16 Application No. A/TKO/94

Proposed Minor Relaxation of Plot Ratio, Site Coverage and Building Height Restrictions for permitted Residential (Group A) Development in "Residential (Group A) 4" and "Residential (Group A) 6" zones, Tseung Kwan O Town Lots 112 & 124 in Area 65C and Tseung Kwan O Town Lots 93 & 126 in Area 68B, Tseung Kwan O (TPB Papers 9217)

[The meeting was conducted in Cantonese.]

10. The Chairman said that the RNTPC considered the section 16 planning application at its meeting on 21.12.2012 and considered that the application should be referred to the full Board for consideration. The Chairman informed Members that the Secretary for Development had announced that one of the lots in the site would be allocated to the Hong Kong Housing Authority (HKHA) for new Home Ownership Scheme (HOS) development. Hence, Members who had affiliation with the HKHA would need to declare interests on this item. The Secretary indicated that as the applicant was the District Lands Officer/Sai Kung of Lands Department (LandsD), the Deputy Director of Lands had declared interests on the item. She also indicated that the purchasers of Tseung Kwan O Town Lot (TKOTL) 76, 113, 114 and 118, being subsidiary companies of Sun Hung Kai Properties Limited (SHK), had submitted public comments objecting to the planning application. Hence, Members who had business dealings with SHK had also declared interests. As such, the following Members had declared interests on the item:

Mr. Jeff Y.T. Lam	-	being the applicant
(as Deputy Director of Lands)		
Mr. Patrick H.T. Lau	}	had current business dealings with
Mr. Ivan C.S. Fu	}	SHK
Mr. Dominic K.K. Lam]	had current business dealings with

Ms. Janice W.M. Lai]	SHK and HKHA
Ms. Julia M.K. Lau	-	had current business dealings with SHK and being a member of the HKHA
Mr. Stanley Y.F. Wong	-	being the Chairman of the Subsidised Housing Committee of the HKHA
Mr. K.K. Ling (as Director of Planning)	-	being a member of the Building Committee and Strategic Planning Committee (SPC) of the HKHA
Mr. Eric K.S. Hui (as Assistant Director (2) of the Home Affairs Department)	-	being an alternate member of the Director of Home Affairs who was a member of the SPC and Subsidised Housing Committee of the HKHA
Mr. H.F. Leung	-	had current business dealings with the HKHA
Mr. Wilton W.T. Fok	-	being the consultant of a study for HKHA (completed in 2009)

11. Members agreed that the interests of the above Members, except Mr. Wilton W.T. Fok, were direct and they should be invited to leave the meeting temporarily for this item. Members noted that Mr. Ivan C.S. Fu and Ms. Janice W.M. Lai had not arrived to join the meeting at this point. All the above Members present at the meeting, other than Mr Wilton W.T. Fok, left the meeting temporarily at this point.

Presentation and Question Session

12. The following government representatives were invited to the meeting at this point:

Mr. Ivan Chung	-	District Planning Officer/ Sai Kung and Islands, Planning Department (DPO/SKIs, PlanD)
Mr. Li Tin-sang	-	Chief Engineer, New Territories East Development Office, Civil Engineering and Development Office (CEDD)

13. The Chairman invited DPO/SKIs to brief Members on the application. With the aid of a powerpoint presentation, Mr. Ivan Chung presented the application and covered the following main points as detailed in the Paper:

Background

- (a) the applicant, District Lands Officer/Sai Kung, LandsD, sought minor relaxation of the development restrictions on the site in the Tseung Kwan O Town Centre South (Town Centre South) under the Approved TKO Outline Zoning Plan (OZP) No. S/TKO/20;
- (b) the application was for minor relaxation of plot ratio (PR), site coverage (SC) and building height (BH) restrictions for permitted residential development of a site as follows:

TKOTLs 112 and 124

- (i) TKOTLs 112 and 124 (the two northern lots) were zoned “Residential (Group A) 4” (“R(A)4”) on the TKO OZP. For these two northern lots, the overall maximum domestic PR was proposed to be increased from 3 to 3.3. The overall maximum non-domestic PR and maximum SC would remain at 0.5 and 50% respectively;
- (ii) for sub-area (a) of the two northern lots, the maximum domestic PR was proposed to be relaxed from 3 to 5, the maximum non-domestic PR from 0.5 to 1, and the maximum SC from 50% to 65%. This was to allow for design flexibility of having the choice to locate a higher proportion of floor space in sub-area (a);
- (iii) the maximum BHs for sub-areas (a) and (b) of the “R(A)4” zone were proposed to be increased from 65mPD/35mPD to 85mPD/45mPD respectively;

TKOTLs 93 and 126

- (iv) TKOTLs 93 and 126 (the two southern lots) were zoned “R(A)6” on the TKO OZP. For these two southern lots, the overall maximum domestic PR was proposed to be increased from 2 to 2.4. The overall maximum non-domestic PR and maximum SC would remain at 0.5 and 50% respectively;
- (v) to allow for design flexibility, for sub-area (a) of these two southern lots, the maximum domestic PR was proposed to be relaxed from 2 to 3, the maximum non-domestic PR from 0.5 to 1, and the maximum SC from 50% to 55%. It was also proposed that the maximum domestic PR for sub-area (c) in TKOTL 126 be relaxed from 2 to 4;
- (vi) the maximum BHs for sub-areas (a) and (b) were proposed to be increased from 50mPD/35mPD to 65mPD/45mPD respectively;

Increase in Flat Supply

- (vii) according to the proposed scheme, the total number of flats to be developed at the site would be increased by 15% or about 433 flats (i.e. from 2,887 flats to 3,320 flats);

Proposed Non-Building Areas

- (viii) to further enhance the amenity value of the subject portion of the Town Centre South, the applicant proposed to provide a 10m-wide public walkway / non-building area (NBA) between TKOTLs 112 and 124, a 10m-wide public walkway / NBA between TKOTLs 93 and 126, and a 15m-wide NBA in a north-south direction through the centre of TKOTLs 93 and 126. These public walkways / NBAs would facilitate pedestrian access,

enhance visual permeability along the waterfront, and enhance wind penetration by breaking down the long building façade in the two southern lots. The applicant stated that the requirements of providing public walkways / NBAs would be stipulated in the leases for the relevant lots;

[Ms. Winnie M.W. Wong arrived to join the meeting at this point.]

Departmental Comments

- (c) departmental comments - government bureau/departments had no objection to or no adverse comment on the planning application. Comments from relevant government departments / bureau were detailed in paragraph 9 of the RNTPC Paper No. A/TKO/94 in Annex A of the Paper (the RNTPC Paper) as highlighted below:
 - (i) the Secretary for Development was of the view that addressing housing issue was one of the key policy priorities of the Government, and the Development Bureau supported the application as it would increase flat production on the site;
 - (ii) from air ventilation perspective, the Chief Town Planner/Urban Design and Landscape, (CTP/UD&L), PlanD had no comment on the applicant's Air Ventilation Assessment (AVA) expert's opinion that no adverse air ventilation impact would be anticipated as a result of the proposal to relax the development restrictions on the site. It was also noted that the proposal had included a number of design merits which would be effected by way of a master layout plan (MLP) requirement to be administered as part of the lease;
 - (iii) from visual impact perspective, CTP/UD&L, PlanD considered that although there would be discernible increases in BH for the northern sites, the proposal had taken due cognisance of the stepped BH concept for the area. Given the planning intention of the area

for high-density residential development with lower floor for commercial uses, and judging from the outlook from major public viewpoints to the east of the site, it was considered that the overall planned visual context was capable of accommodating the relaxations sought and the proposal would have negligible visual impact on the overall visual composition of the Town Centre South. The Chief Architect/ASC, Architectural Services Department (ArchSD) had no adverse comment in-principle on the application from the visual point of view, noting the minor variation of the planning parameters of the site;

- (iv) the Commissioner for Transport advised that overall, there should be adequate parking spaces in Tseung Kwan O South upon the completion of developments with the population intake from the proposal. The road network in Tseung Kwan O South should also have adequate capacity to cater for the additional traffic flow due to the proposed increase in development density and the additional traffic impact on the existing road network and public transport system should be minimal; and
- (v) the Project Manager/New Territories East, CEDD advised that the existing/committed infrastructure provision could be able to accommodate the proposed minor relaxation without the need for major improvement works;

Public Comments

- (d) a total of 2,373 public comments were received during the first three weeks of the statutory publication period of the planning application. Two comments supported the application. Three comments made suggestions which were not directly related to the application. The remaining 2,368 comments objected to the planning application, and these comments were mainly submitted in the form of standard letters from the residents of Ocean Shores, Oscar by the Sea and the Alliance

of Tseung Kwan O Residential Estates. The purchasers of TKOTLs No. 76, 113, 114, 115 and 118, which were all located to the west of the site within the Town Centre South, submitted public comments objecting to the application. The main reasons of objection were summarized in paragraph 10 of the RNTPC Paper as highlighted below:

- (i) the current development restrictions were based on the design concept recommended under the 'Feasibility Study for Further Development of Tseung Kwan O' completed in 2005 (Feasibility Study) and were imposed on the OZP following a due process of public consultation. The commenters felt that they were being cheated and the Government had not kept its promise if such restrictions were relaxed;
- (ii) an increase in the development intensity at the site would result in wall-like buildings, which would block air ventilation and sunlight penetration and affect the health of the local residents nearby;
- (iii) the intensification of development density on the site would result in an increase in population and aggravate the traffic congestion problem, and would cause extra burden on parking and public transport facilities, road capacity, local infrastructures, and community and healthcare facilities;
- (iv) there was a lack of technical assessments on the key aspects of traffic, environmental, visual and air ventilation impacts to support the application, and the visual impacts on adjacent areas such as Areas 65 and 66 had not been assessed;
- (v) the proposed relaxation of PR and BH by 20% and 30% and the proposed increase of PR from 2 to 5 were significant and should not be classified as minor relaxations;

- (vi) the proposal, being a departure from the current OZP, was unfair to the developers who previously purchased lots in the Town Centre South based on the current OZP restrictions. The proposal would have a bearing on the design and views of the committed developments in the vicinity. It would reduce the steps of BH profile from three to two which, would induce adverse visual and air ventilation impacts; and
- (vii) approval of the application would set an undesirable precedent for similar cases in the future; and

PlanD's Views

- (e) the planning considerations and assessments detailed in paragraph 11 of the RNTPC Paper were summarised below:

Planning Intention of OZP

- (i) the planning intention of the site under the "R(A)" zone, which was for high-density residential development with commercial uses on the lowest three floors of a building, would remain unchanged under the subject application;

Design Concepts of the OZP

- (ii) against the backdrop of Bauhinia Garden with domestic/non-domestic PR of 7.15/0.1 and the public rental housing development with domestic/non-domestic PR of 4/0.5, the proposed overall maximum domestic/non-domestic PRs for the site (i.e. 3.3/0.5 for the two northern lots and 2.4/0.5 for the two southern lots) were still relatively low for prime sites near MTR station;
- (iii) with the proposed increase in BH, the proposed 'high zone' (i.e. sub-area (a)) of the two northern lots at 85mPD would still be 15m lower than the adjoining public rental housing development and

40m lower than Bauhinia Garden. The key design framework of a stepped BH profile descending towards the waterfront as recommended in the Feasibility Study would be maintained. The overall domestic PR of the lots within the site would be at 3.3 (for the two northern lots) and 2.4 (for the two southern lots) and the relaxation of development restrictions for the sub-areas of the four lots were to allow for design flexibility;

Visual, Air Ventilation and Environmental Impacts

- (iv) CTP/UD&L was of the view that given the planning intention of the area for high-density residential development and judging from the outlook from major public viewing points to the east of the site, the proposal would have negligible adverse visual impact on the overall visual composition of the Town Centre South;

- (v) according to the opinion of the applicant's AVA expert, with the stepped BH profile descending from the inland to waterfront still being followed, the higher BH in the proposal could still allow the southerly wind to reach further inland and building downwash to benefit pedestrian level. The Eastern Channel (to the east of the site), with a width of more than 100m, could serve as a breezeway for southerly wind entry into the centre of the town. The proposed increase in BH would not adversely affect air ventilation in the surrounding area. Both CTP/UD&L, PlanD and Chief Architect/ASC, ArchSD had no comment on the application from the visual impact perspective;

- (vi) from the environmental perspective, DEP had no comment on the application;

Other Technical Impacts

- (vii) concerned government departments had confirmed that the existing infrastructures, notably in terms of traffic and transport, drainage and water supplies, could accommodate the increase in

development intensity. All relevant government departments had no adverse comment on the application;

Other Matters

- (viii) the planning application provided planning merits by proposing two 10m-wide public walkways / NBAs between the two northern and southern lots and a 15m-wide NBA through the centre of the two southern lots to enhance pedestrian access, visual permeability and wind penetration;
- (ix) the proposed incorporation of the NBAs and requirement for submission of MLP under the lease were considered as planning merits that should contribute towards improving the amenity value of the Town Centre South;

Response to Public Comments

- (x) the two supportive comments were noted;
- (xi) with regard to the public comments of whether the proposal would contravene the Feasibility Study, it was outlined above that the fundamental design concept of the Feasibility Study to provide a stepped BH profile in the Town Centre South with height variations within the site could be maintained;
- (xii) regarding the public comments on the adverse impacts of the proposal on daylight and air ventilation on the existing residential developments, it should be noted that the site was not located directly next to any existing developments. Hence, it was highly unlikely that there would be any adverse impact in these aspects. In particular, the housing estates where residents had submitted standard letters, i.e. Oscar by the Sea and Ocean Shores were respectively more than 150m and 650m away from the site;

- (xiii) regarding the public comments on the potential impact of the proposed increase of about 433 flats on traffic, parking infrastructure and community facilities, all relevant departments consulted had no adverse comment on the application;
- (xiv) regarding the public comments on whether the site should be for public housing development, as the application was for minor relaxation of development restrictions, the type of housing was not a material consideration; and
- (xv) regarding the public comments on whether the subject application for relaxation of development restrictions was minor and whether the approval of the application would set a precedent, according to the Notes of the OZP, the Board might consider each case on its individual merits;

Consultation with Sai Kung District Council

- (f) the planning application proposing minor relaxation to the development restrictions on the site was presented to the Sai Kung District Council (SKDC) on 6.11.2012. Relevant minutes of SKDC meeting held on 6.11.2012 were at Annex C of the Paper and the main views were highlighted below:
 - (i) whilst there were diverse views expressed at the meeting, over half of SKDC members who spoke at the DC meeting were in support of or had no objection to the proposal on the grounds that flat supply could be increased to meet the imminent housing need; sale of sites for private housing was needed to generate government revenue; there was demand for private housing in TKO; and the proposal which would retain the stepped BH concept was considered reasonable; and
 - (ii) some SKDC members, however, raised objection to the proposal

out of the concerns that the proposal would favour private developers and the site should be for public housing development; it would depart from the design concept of the Feasibility Study (2005) agreed by the community; it would adversely affect the views and air ventilation of the surrounding developments as well as the transport and community services capacities; more public consultation would be required; and it would set a precedent for more applications for further increase in development density in the area;

Consideration of the application by the RNTPC on 21.12.2012

- (g) on 21.12.2012, the RNTPC considered the application and decided that the application should be referred to the full Board for consideration. The discussion at the RNTPC on 21.12.2012 was recorded in the minutes in Annex B of the Paper and the main views of Members were highlighted below:
 - (i) Members noted that the proposed increase in development intensity for the application site through minor relaxation of development restrictions was to increase the supply of flats to meet the community's need. It was also noted that with the proposed increase in BH at the subject site, the stepped BH profile as recommended in the Feasibility Study could still be maintained;
 - (ii) however, some Members were concerned that the proposed relaxation of the OZP restrictions might not be considered as minor and should only be allowed when there were strong justifications. There were also concerns as to whether the proposal had deviated from the recommendations of the Feasibility Study and whether the Study had allowed a certain degree of flexibility for increase in development intensity; and
 - (iii) in view of the concerns of the community about the need to

increase housing supply and the strong local objections received on the subject application, it was decided that the application should be referred to the full Board for consideration. Members also agreed that information on the discussion of the Sai Kung District Council (SKDC) on the proposal should be provided for Members' reference and that the CEDD be invited to attend the Board's meeting to explain the Feasibility Study;

Responses to RNTPC's concerns

- (h) at the RNTPC meeting held on 21.12.2012, Members considered that strong justifications should be provided to support the increase in development intensity, which had departed from the recommendation of the Feasibility Study and the OZP restrictions. PlanD's further responses were detailed in paragraph 3 of the Paper and summarised below:
 - (i) the site comprised four lots which were readily available for development and due to be sold. Approving the application could help achieve the policy objective of increasing housing supply to meet the community's imminent demand for housing;
 - (ii) the increase in the maximum BH and SC for the sub-areas were necessary to accommodate the proposed increase in GFA. Nevertheless, there was no change in the overall SC for the four lots;
 - (iii) the fundamental design concept of the stepped BH profile recommended by the Feasibility Study could still be maintained as shown in the photomontages;
 - (iv) although detailed design would be left to the future developers, the lease for the subject lots would stipulate the requirements to submit MLP and provide public walkways / NBAs within the lots.

The NBA in the centre of TKOTLs 93 & 126 would help break up the long frontage of the lots which ran parallel to the waterfront. The two east-west public walkways / NBAs between the four lots would improve pedestrian flow, visual permeability and air ventilation. Such measures would contribute towards enhancing the amenity value of the Town Centre South;

- (v) the site was flat and well served by infrastructure and within walking distance from the MTR TKO station. The proposed maximum domestic/non-domestic PRs for the site at 3.3/0.5 and 2.4/0.5 for TKOTLs 112 & 124 and TKOTLs 93 & 126 respectively were still relatively low when compared to the existing developments atop MTR stations in TKO;
- (vi) there was a change in circumstances with the community's demand for housing getting more acute in recent years. The proposal which would increase the flat production of the site by about 433 flats was considered not unreasonable;
- (vii) according to the latest information, the Government intended to use one of the four lots within the site for the development of subsidized housing. This would contribute to the policy objective of providing more subsidized housing to meet the needs of Hong Kong permanent residents; and
- (viii) in response to RNTPC's comments about infrastructure capacities, CEDD reconfirmed that the infrastructure provided in the Town Centre South had sufficient spare capacity to accommodate the proposed increase in population by about 1,000 persons. The design of infrastructure provided in the area had been based on the planned land uses with some design safety margin. The design of infrastructure (e.g. sewers, water mains, etc.) also had to take into account the standard sizes (i.e. pipe

diameter) of infrastructure components available in the construction market, and this would offer some spare capacity of the infrastructure; and

PlanD's View

- (i) based on the planning considerations and assessments detailed in paragraph 11 of the RNPTC Paper and the further responses to the concerns raised at RNTPC in paragraph 3 of the Paper, the PlanD had no objection to the planning application.

[Mr. Clarence W.C. Leung arrived to join the meeting at this point.]

14. Before the Chairman invited questions from Members, he said that Members should note two new circumstances since the RNTPC considered the application on 21.12.2012. Firstly, it was mentioned in the Chief Executive's 2013 Policy Address that "the DEVB is working with the PlanD and other departments to increase the development density of unleased or unallocated residential sites as far as allowable in planning terms". Hence, there was a new government policy that was relevant to consideration of the subject application and similar applications in future. Secondly, it was decided by the Government that one of the lots within the site would be allocated to the HKHA for new HOS development.

Private / Subsidised Housing

15. A Member asked whether the Government had previously informed the public about the type of residential developments (i.e. private / subsidized housing) that would be built on the site. Mr. Ivan Chung replied that the site was zoned "R(A)" under the OZP but there had been no indication in the past as to whether the site was for private / subsidized housing. However, the LandsD had indicated in their supplementary planning statement for the subject application that the lots in the site were included in the Land Sales Programme for private housing. In response to this Member's question, Mr. Ivan Chung said that TKOTL 124 would be allocated for new HOS development.

Population Increase and Supporting Infrastructure / Facilities

16. A Member asked about the current population in TKO and the increase in population arising from the proposed increase in flats. In response, Mr. Ivan Chung (DPO/SKIs) said that the planned population in TKO (as stated in the Explanatory Statement of the OZP) was 445,000, and the current population in TKO was about 370,000. With the additional 433 flats proposed in the subject application, there would be an additional population of around 1,000 persons.

17. A Member asked whether there was a corresponding increase in the provision of facilities to support the increase in flats and population under the subject application. In response, Mr. Ivan Chung said that, compared with the existing TKO population of about 370,000, the increase in population (of 1,000 persons) in the subject application would be small. He continued to explain that prior to the Feasibility Study, the planned population in TKO was 480,000 and after incorporating the recommendations of the Feasibility Study, the planned population was reduced to 445,000. Hence, the proposed increase in population of 1,000 would not cause any adverse impacts on transport and other infrastructures, and all relevant government departments had indicated no adverse comment on or no objection to the subject application.

18. Another Member asked whether the proposed increase in population would cause adverse impacts on the tertiary planning unit where the site was located. Mr. Ivan Chung said that he did not have information about the population density in the subject tertiary planning unit. However, he said that the population density in the Town Centre South was relatively low when compared to other areas within TKO such as Po Lam and Hang Hau where developments had PRs ranging from 7 to 8. He indicated that the Town Centre South was originally planned for a population of 25,400 and, based on the Feasibility Study, the planned population was reduced by almost 25% to 18,900. As such, with the proposed increase of population of 1000, the population density would still be much lower than the original population density planned prior to the Feasibility Study.

19. A Member said that it was important to ensure that the proposed increase in development intensity would not have adverse impacts on the transport infrastructure serving TKO. In this regard, the Member asked about the progress of the Cross Bay Link

project which would connect the TKO – Lam Tin Tunnel with Area 86 in TKO. Mr. Li Tin-sang (Chief Engineer, CEDD) replied that the initial design and environmental impact assessment (EIA) for the Cross Bay Link project had been completed. The EIA would be submitted to EPD in due course and it was targeted to have the road project gazetted in mid 2013.

Precedent Cases

20. Two Members asked whether there were minor relaxation applications similar to the subject application which were previously approved by the Board. The Secretary said that there were a lot of minor relaxation applications submitted by private landowners and there had been approved precedents based on merits of the individual cases.

Stepped Building Height

21. A Member said that one of the key recommendations of the Feasibility Study was to maintain a stepped BH profile in the Town Centre South and the PlanD had indicated that a stepped BH profile would still be maintained under the subject planning application. This Member asked whether there were any recommendations in the Feasibility Study as to what extent the BH could be relaxed without affecting the stepped BH profile.

22. In response, Mr. Ivan Chung explained the background of the Feasibility Study and the stepped BH concept recommended under the Study. He said that previously there were concerns that the development intensity in TKO was too high and hence, the Government commissioned a study to review the development in the Town Centre South. The Feasibility Study recommended an overall stepped BH profile for the Town Centre South, where BH was proposed to descend from the TKO MTR Station towards the waterfront. As shown on the current OZP, for the sites along the Central Avenue, the sites immediately south of the TKO MTR Station were subject to a BH restriction (BHR) of 100mPD and the sites closer to the waterfront were subject to a BHR of 65mPD. Regarding the site, the BHR for sub-area (b) of the four lots on the site abutting the waterfront promenade along the Eastern Channel had BHRs of 35mPD, which were generally lower than the BHRs of sub-area (a) (i.e. 65mPD for the two northern lots and

50mPD for the two southern lots). A small waterfront area in TKOTL 126 was subject to BHR of 60mPD.

23. Referring to Drawings A-5 and A-6, Mr. Ivan Chung further explained that with the relaxation in BHR proposed in the subject application, the overall BH profile that descended from the TKO MTR Station to the waterfront would still be maintained although the stepped BH might be less distinct. He said that the Feasibility Study had not recommended the extent of relaxation in BH that might be considered acceptable, but it should be noted that the Board had incorporated the minor relaxation provision in the OZP for the sites in the Town Centre South to allow for design flexibility and for the Board to consider each case based on individual merits.

Relaxation of Development Restrictions in the Sub-areas

24. Referring to the table in paragraph 1.5 of the RNTPC paper (as excerpted below), three Members asked DPO/SKIs to explain the rationale for proposing relaxation of the specific development parameters. Members asked DPO/SKIs to explain why the PR was not proposed to be relaxed for sub-area (b) of the four lots but the BH had to be relaxed; and for sub-area (c) of TKOTL 126, why the PR was proposed to be doubled but the BH was not proposed to be relaxed.

Lot (TKOTL) No.	OZP Zone	Sub Area	Maximum Domestic Plot Ratio		Maximum Non-Domestic Plot Ratio		Maximum Site Coverage (excluding basement(s))		Maximum Building Height (metres above Principal Datum)	
			Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed
Two Northern Lots										
112	R(A)4	Overall	3	3.3	0.5	0.5	50%	50%		
124		Area (a)	3	5	0.5	1	50%	65%	65	85
		Area (b)	3	3	0.5	0.5	50%	50%	35	45
Two Southern Lots										
93	R(A)6	Overall	2	2.4	0.5	0.5	50%	50%		
126		Area (a)	2	3	0.5	1	50%	55%	50	65
		Area (b)	2	2	0.5	0.5	50%	50%	35	45
		Area (c)	2	4	0.5	0.5	50%	50%	60	60

(Source: Paragraph 1.5 of RNTPC Paper No. A/TKO/94)

25. Mr. Ivan Chung explained that the subject application was for relaxation of the overall PR of the two northern lots (TKOTL 112 and 124) from 3 to 3.3 and for the two

southern lots (TKOTL 93 and 126) from 2 to 2.4. According to the current restrictions in the OZP, the sub-areas in the two northern lots (zoned “R(A)4”) were all subject to PR restriction of 3; and the sub-areas in the two southern lots (zoned “R(A)6”) were all subject to PR restriction of 2. To allow more design flexibility of having the choice to locate a higher proportion of floor space in some sub-areas, the subject application proposed to relax the maximum domestic PRs, maximum non-domestic PRs and maximum site coverage in sub-area (a) of the four lots; the maximum domestic PR in sub-area (c) of TKOTL 126; and the maximum BH in sub-areas (a) and (b) of the four lots (as shown highlighted bold in the above table).

26. Mr. Ivan Chung explained that the above table in the RNTPC paper was based on a notional scheme submitted by the applicant. He further explained the information in the table as follows:

- (a) if there was to be an increase in domestic PR in sub-area (a), it would necessitate a corresponding increase in BH in that sub-area;
- (b) owing to the overall proposed PR of 3.3 and 2.4 respectively for the two northern and southern lots, if the domestic PR in sub-areas (a) for the two northern and southern lots were respectively increased to the maximum of 5 and 3 as shown in the table, the domestic PR in sub-areas (b) would respectively have to be lower than 3 and 2. However, to allow for design flexibility, it was considered not necessary to correspondingly reduce the PR for sub-area (b) as the lots were subject to an overall PR restriction;
- (c) for sub-area (c) in TKOTL 126, since the area was relatively small when compared to the other two sub-areas in the same lot, the proposed increase in PR could be accommodated within the BHR of 60mPD and no relaxation was sought;
- (d) the overall non-domestic PR and SC for the four lots were not proposed to be relaxed. However, it was proposed that the non-domestic PR for sub-area (a) for the four lots be relaxed from 0.5 to 1, which necessitated

a corresponding relaxation of the SC for this sub-area. The non-domestic PR would mainly accommodate retail and commercial uses; and

- (e) the future development could be built up to the proposed BH indicated for each of the sub-areas as shown in the table.

27. A Member asked how the GFA would be allocated between the sub-areas; what the rationale for increasing the BHR for sub-area (b) of the four lots from 35mPD to 45mPD was, given that the PR for sub-area (b) was not proposed to be relaxed; and whether the existing roads traversing the site would be retained and be included in the site area for PR calculation purpose.

28. In response, Mr. Ivan Chung said that the two northern and southern lots would be respectively subject to a maximum PR of 3.3 and 2.4, and the aggregate gross floor areas of the sub-areas in each lot should not exceed this maximum PR. For example, if the domestic PR for sub-area (a) in the two northern lots were, say, between 4 and 5, the corresponding PR for sub-area (b) would be lower than 3. The same principles would apply for the two southern lots. The rationale for proposing relaxation of the BHR for sub-area (b), where there was no proposed change in the PR restriction, was to provide more design flexibility to achieve the planning intention of creating an interesting activity edge, with alfresco dining and retail shops, abutting the waterfront promenade along the Eastern Channel. The existing roads on the site were only temporary roads serving the works area and would not remain as public road after the development of the site. In this regard, those road areas would be included in the site area of the lots for PR calculation purposes.

29. In response to two Members' further question, Mr. Ivan Chung explained that there were four lots on the site, as shown in Plan A-2a of the RNTPC Paper. If the subject application was approved by the Board, each of the two northern lots would be subject to an overall PR of 3.3 and each of the two southern lots would be subject to an overall PR of 2.4. The proposed relaxation of PRs for the sub-areas within each of the four lots was to provide design flexibility in the disposition of floor spaces between the sub-areas. Each lot would be developed as a whole and the respective sub-areas would

not be separately sold off to different developers.

Drivers for Increase in Flat Number

30. A Member asked whether the proposed increase in the number of flats to be provided on the site was mainly due to the increase in PR or the change in housing type proposed on the site. In response, Mr. Ivan Chung said that the increase in number of flats was due to both an increase in PR and a change in the flat size assumptions. In response to the further question from this Member about the relative importance of the two factors in contributing to the increase in the number of flats (i.e. increase in PR or change in flat size assumptions), Mr. Ivan Chung indicated that the increase in PR was a more important factor contributing to the proposed increase in number of flats. Mr. Ivan Chung also advised Members that for the nine other plots of land in the Town Centre South (to the northwest of the site) that had already been sold for private housing development, the number of flats were stipulated in the respective leases.

31. The same Member further asked whether the primary driver for the proposed relaxation of PR on the site was the increase in overall housing supply or supply of subsidised housing. This Member indicated that it appeared that the primary driver was to increase housing land supply and if that was the case, what were the specific merits of the subject application that justified the proposed relaxation of development restrictions. If the Board were to make a decision on the subject application, it had to be clear about the precedent effect on similar applications in future. It was important to establish the principles on which the subject application was being considered.

Public Walkway / Non-Building Areas

32. A Member indicated support for the three proposed public walkways and / or NBAs on the site. Another Member asked about the rationale for the proposed number and width of the public walkways / NBAs. Mr. Ivan Chung explained that the 10m-wide public walkway / NBA proposed between the two northern lots would provide access to the pedestrian bridge across the Eastern Channel and the waterfront promenade which would be linked to the town park. The 10m-wide public walkway / NBA proposed between the two southern lots would provide access to the waterfront park. The

15m-wide north-south oriented NBA proposed through the centre of TKOTL 93 and 126 was for air ventilation purpose and to enhance visual permeability by breaking down the building facades running parallel to the waterfront. He indicated that the Transport Department had advised that a 10m-wide public walkway would be sufficient to accommodate the pedestrian flow at those locations. It was also explained that if too many public walkways / NBAs were proposed, it might impose constraints on the development of the site.

33. As Members had no further question to raise, the Chairman thanked the government representatives for attending the meeting. They left the meeting at this point.

Deliberation

34. The Chairman said that, as explained at the beginning of the meeting, Members might wish to note two new circumstances since the RNTPC considered the application on 21.12.2012. First, one of the lots within the site would be allocated to the HKHA for new HOS development. Secondly, the Chief Executive's 2013 Policy Address had included a new government policy to suitably increase the development density of unleased or unallocated residential sites as far as allowable in planning terms. He then invited Members to deliberate on the application.

35. A Member indicated support for the application in view of the new government policy in the 2013 Policy Address and the strong community demand for increasing housing supply. This Member indicated that the originally planned PRs for the Town Centre South were relatively low and the PR of the site might be suitably increased. Furthermore, relevant government departments had confirmed that the planned infrastructure was sufficient to support the proposed increase in PR on the site.

36. The same Member indicated that the Government should, however, ensure that with the increase in PR, the proposed increase of 433 flats could be realised. In response, the Chairman said that for the other lots in the Town Centre South that were sold, there were specifications on the number of flats in the land sale conditions. To address the urban design considerations, this Member indicated that there might be a requirement for submission of MLP at the design stage. In response, the Chairman said that the applicant

had proposed that the requirement for submission of MLP would be stipulated as a condition under the lease. In that case, LandsD would circulate the submitted MLP to the PlanD and other relevant departments for comments.

37. Another Member indicated support for the application due to the strong community demand for increasing housing land supply. This Member said that the Board's decision on the subject application would set a precedent for future cases and it was necessary to establish the board principles to guide future decisions of the Board.

38. Another Member indicated support for the application as it would increase housing land supply and allow more design flexibility on the site. This Member indicated that the subject application would set a precedent and Members should discuss whether it was appropriate to allow for a relaxation of development restrictions on the site by way of a section 16 planning application and whether there was any maximum extent of relaxation that could be sought / approved under the minor relaxation provisions of the OZP. The Chairman said that it was important for the Board to be satisfied that the proposed relaxation in PR sought through the section 16 planning application would not create unacceptable impacts. The Chairman also indicated that the Board had not set criteria for the extent of relaxation that could be sought / approved under the minor relaxation provisions of the OZP, and this provided flexibility for the Board to consider each case on its own merits.

39. With regard to urban design considerations, the same Member suggested that the MLP might be submitted to the Board for consideration. In response, the Secretary said that under section 4A of the Town Planning Ordinance (the Ordinance), the Board could require the submission of MLP for sites zoned "Comprehensive Development Area". The Board could also specify requirements for submission of MLP for sites under other zonings, but the requirement would normally be specified in the Notes of the OZP. Furthermore, it might not be appropriate to set a precedent by specifying in a lease condition, the requirement for submission of MLP for consideration by the Board.

40. A Member indicated support for the application as the social need for housing should prevail. The Member suggested that the Board should satisfy itself that there were sufficient justifications substantiated with quantitative evidence to support the proposed

relaxation sought. This Member was of the view that there might be room to further increase the PR on the site, although it was understood that the proposed relaxations might have struck a balance having regard to concerns from the local community. The Chairman said that in the past few years, the emphasis of the Board's work had been to take forward the Chief Executive's 2007 - 2008 Policy Address to promote a quality living environment. Currently, the community's demand for housing was imminent and it was necessary to put a heavier focus on increasing housing land supply.

41. The Secretary said that the applicant had submitted a supplementary planning statement, as attached to Annex 1a of the RNTPC Paper, which provided the justifications and necessary assessments in support of the application. The Secretary said that should there be proposals to increase PR across the board, it would be necessary to carry out comprehensive studies to justify the increase.

42. A Member fully understood that there was a social need for more housing land. The housing problem was a complex matter involving the interplay of many factors and purely providing more housing land or increasing development intensity of housing land might not be effective to resolve the current housing problem. In the past few years, the Board had amended OZPs in order to address the community's concerns on walled buildings and the need for a quality living environment. At that time, the community had been fully engaged and there was consensus for a need to improve the built and living environment. It would be appropriate to consult the community again to gauge the public's view on the proposed increase in development intensities of housing sites, and if there was such consensus, the Board could go through another round of OZP amendments. It was also understood that the Government considered that a section 16 planning application might be a quicker way, compared to amending OZPs, to increase the PR of housing sites. The Board should consider whether that would compromise its established mechanism or principles and whether the justifications presented were adequate for the purpose. The Board needed a thorough discussion on the subject application as it would set a precedent for the Board's decisions on similar applications in future.

43. This Member asked the Secretary to clarify whether the subject application would normally be dealt with as a section 12A application. The Secretary explained that the provision to apply for amendment to the OZP under section 12A of the Ordinance was

introduced in the Town Planning (Amendment) Ordinance in 2005. Before then, rezoning proposals were processed on an administrative basis. She said that in the 1990's, there were instances that change of use say, from government to residential use (where 'flat' was a Column 2 use under the "Government, Institution or Community" ("G/IC") zone) was effected through the section 16 planning mechanism. The Secretary cited a case at Cox Road where the Board approved a section 16 planning application for a residential development on a site zoned "Government, Institution or Community" ("G/IC"). At that time, as there was no mechanism for public consultation on section 16 planning applications, the change of use on that site through the section 16 mechanism created much concern. The case was also discussed by the Legislative Council. It was then agreed that a proposal involving a change of the planning intention of the zoning of the sites should be pursued by way of zoning amendments rather than section 16 planning applications. However, the subject application was not about change of land use.

44. The Secretary continued to explain that after the Town Planning (Amendment) Ordinance became effective in 2005, there was a major change in the section 16 planning process as there was provision for publication of the planning application and for the public to provide comments on planning applications. Currently, for both section 16 planning applications and amendments to OZPs, there were provisions for seeking public representations/comments as appropriate. However, for a section 16 planning application, there was no provision under the Ordinance for the public to attend the meeting and address the Board directly. Regarding amendments to OZPs, the public who submitted representations and comments could attend the hearing and address the Board directly.

45. The Secretary pointed out that for proposals that involved a change of planning intention of the zoning of the sites, for example, for a residential use on a "G/IC" site, the Board should consider whether it was appropriate for those proposals to be processed under section 16 planning applications or as amendments to OZPs. For the subject case, the applicant only sought minor relaxation of the development restrictions on an existing residential zoning, involving no change in the original planning intention. She said that there were not many planning applications submitted by the Government for minor relaxation of development restrictions on government sites. However, there were many examples of the Board approving applications for minor relaxation of development restrictions involving private land based on planning and design merits. Regardless of

whether the applicants were from the private sector or from the Government, they were required to submit sufficient justifications and assessments for the Board's consideration and the Board would consider the applications on individual merits.

46. The Secretary further indicated that, as mentioned by the Chairman, there were new circumstances since the RNTPC considered the application on 21.12.2012. Members should carefully consider the subject application as it would definitely set a precedent for other similar applications, submitted by either the Government or by the private sector. The Board needed to consider whether the provision of more housing land would be regarded as a public interest that could justify a relaxation of PR. The Board might also consider whether the provision of subsidized housing on the site could be regarded as a public interest that should be given more weight in the consideration of the subject application.

47. In response to a Member's question, the Secretary advised that the future developer could submit another planning application to further relax the development parameters on the site and the Board would have to consider such application in light of its planning and design merits.

48. A Member indicated support for the application as it was in the public interest to increase housing supply. This Member noted that the existing / planned community services were sufficient to accommodate the additional population arising from an increase in development intensity on the site. Nevertheless, this Member opined that for future proposals to increase the development intensity of a site, the Government should consider providing more community facilities as compensation to the local community.

49. Another Member said that whether one could differentiate the subject planning application, which was made by the Government for the public good (i.e. to increase housing land) from other planning applications from developers where justifications were also for increasing housing supply. If the primary driver for the subject application was to increase housing land supply, then such justification would be applicable to both government land and private sites. The Member asked whether it was a correct understanding that other than the OZP, the leases could also provide a control on the development intensity of private sites as premium had to be paid for increasing the

development intensity of a site at the stage of lease modification. The Secretary said that for sites governed by unrestricted leases, there was no control on development intensities under the lease.

50. This Member continued to say that if the Board was to rely on the new government policy, meaning a relaxation of development intensities only for unallocated and unleased residential sites on government land, such government policy must be relevant from town planning perspective.

51. A Member indicated that the provision of subsidised housing on the site was one of the considerations but it should not be the determining consideration in the Board's decision. The Member reasoned that only one of the four lots on the site would be allocated for subsidized housing, and why the PRs on the other three lots should also be relaxed had to be justified. This was particularly the case as the two northern lots (zoned "R(A)4") and the two southern lots (zoned "R(A)6") were under different zonings.

52. The Chairman reminded Members of a previous Court judgment which indicated that the Chief Executive in Council (CE in C) was the fountainhead of planning matters according to the Ordinance. For example, if the Board had to make amendments to an approved plan, the Board had to request the CE in C to refer the plan to the Board for amendment. In such respect, the Board was assisting the Chief Executive to exercise an administrative function. The Board had the responsibility to take into consideration government policy in so far as it would not contravene the objective of the Ordinance to promote the well being of the community. Members should consider whether the supplementary planning statement submitted by the applicant had included sufficient justifications to support the application. In this regard, Members might wish to note that the PlanD had indicated that all relevant government departments consulted had no objection or no adverse comment on the application. The Chairman also said that while the application site was divided into four lots for the purpose of land sale, the proposal under application should be considered as a whole. The inclusion of subsidised housing in the application site could be regarded as a public interest for consideration in the subject application.

53. A Member said that at the time of preparing the Feasibility Study in 2005, the

community desired for a more spacious and quality living environment. However, given the current community demand for more housing land, the Board had to take into account the changing social aspiration. The Member said that the relaxation sought in the subject application might be considered minor. However, it was necessary to revisit the basic principles, standards and data which the Board had relied on in the past and consider how the Board should assess similar cases in the light of changing community aspiration and the new government policy. The Chairman said that according to the PlanD, the stepped BH profile recommended in the Feasibility Study would still be maintained with the proposed relaxations sought under the subject application. If there were a need to consider increasing the PR for a wider area, say for the entire TKO new town, it would have to be supported by a comprehensive study and assessments.

54. A Member indicated in-principle support for the application in view of the community's demand for more housing land. This Member agreed with the views raised by some other Members that the Board's decision should be made on the basis of the information and justifications submitted. The Member indicated that the concerns of the local community about the impacts on traffic, environment and provision of community services should be taken into consideration and examined against the technical assessments submitted by the applicants and the comments of the relevant government departments.

55. Another Member also indicated support for the application in view of the need to increase housing land supply. This Member noted that the application only involved an increase of 433 flats, but major increase in the BH was proposed. For future applications for increase in PRs, it would be prudent to minimise the increase in BH to alleviate concerns of the local community.

56. A Member also indicated support for the application. In terms of the planning merits of the subject application, this Member considered that the supply of housing on government land that would contribute to increase in land sale revenue could be regarded as a public interest. Another relevant consideration was that the application would allow an increase in housing supply without compromising the stepped BH profile recommended under the Feasibility Study. This Member also opined that the provision of subsidised housing element in the subject application should not be given excessive weight. As the Site abutted the waterfront of the Eastern Channel, it should be ensured that the

future development would integrate with the waterfront setting, and an advisory clause might be added to this effect. In this regard, the Chairman said that integration of the development with the waterfront could be assessed in the MLP submission under the lease requirement.

57. A Member said that each case should be considered on its own merits and based on consistent principles. If there were similar planning merits, the Board could also consider approving similar applications submitted by private developers.

58. A Member indicated support for the application in view of the need to provide more housing land. The application was considered acceptable as relevant government departments had indicated that there would be no adverse impacts from the traffic, environment, visual and air ventilation perspectives. With regard to the stepped BH concept, this Member considered that the original stepped BH profile recommended in the Feasibility Study was better than the current scheme. This Member said that an additional NBA might be proposed between TKOTL 124 and 93. On the whole, this Member considered that the section 16 planning application was more acceptable than some other cases where stand-alone sites originally zoned "G/IC" were proposed to be rezoned for residential uses and there were strong local objections.

59. A Member said that it might be more appropriate to highlight the new government policy to suitably increase development intensity on unleased and unallocated residential sites as the main reason for the Board's support of the application. On the other hand, the provision of subsidised housing should be one of the considerations. The Board should, like all other cases, take into account all relevant considerations.

60. As Members had no further comment to make, the Chairman concluded the deliberation and said that Members generally supported the application after consideration of all the relevant factors. In particular, Members noted the new government policy announced in the Chief Executive's 2013 Policy Address to suitably increase development intensity on unleased and unallocated residential sites as far as allowable in planning terms. Members also considered the Government's latest decision to allocate TKOTL 124 within the site for new HOS development. Members also noted that the design framework for a stepped BH profile in the Town Centre South recommended in the Feasibility Study would

be maintained even with the proposed relaxations sought under the subject application; and that relevant government departments consulted had indicated no objection or no adverse comment on the application from all technical aspects, including transport, environment, visual and air ventilation aspects. Members also supported the proposed provision of public walkways / NBAs on the site to enhance pedestrian access, visual permeability and air ventilation.

61. The Chairman then invited Members to consider whether an additional NBA should be incorporated between TKOTL 124 and 93 as suggested by a Member. A Member considered that it might not be necessary to include a public walkway at that location as the public walkway would only lead to the school sites. Another Member supported an additional NBA at that location as it would improve ventilation to the school sites. In response to the Member's question, the Secretary explained that the NBA could serve the function to provide a gap between the buildings to be built on the two sites, and the NBA would be included in the site area for the purpose of PR calculations. After further deliberation, Members generally agreed that an additional NBA should be incorporated between TKOTL 124 and 93. In response to the Chairman, the Secretary said that the planning application would be subject to an approval condition for the design and provision of NBA to the satisfaction of the Director of Planning or of the Board. As such, the Board's proposal for an additional NBA between TKOTL 124 and 93 could be dealt with under the planning condition and be stipulated in the lease. Members agreed.

62. In response to a Member's question, the Secretary said that regardless of whether the applicant was from the private sector or the Government, sufficient justifications should be provided to support its planning applications. The PlanD would ensure that all matters normally covered under the planning assessments and consideration section of papers would be adequately addressed by applicants.

63. Another Member asked whether similar applications should be considered by the Board, rather than the planning committees, in future. The Chairman said that whether a case needed to be referred to the full board for consideration should depend on the complexity of the case and should be a decision for the Planning Committees. In this regard, the two Vice-chairmen of the Metro Planning Committee and RNTPC both considered that the planning committees should continue to consider the cases in future

and only controversial or complex cases would be referred to the full Board for consideration. Members agreed.

64. After deliberation, the Board decided to approve the application on the terms of the application as submitted to the Board. The permission should be valid until 18.1.2017 and, after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. Members then went through the approval condition and advisory clauses as stated in paragraph 4.2 of the Paper and considered that they were appropriate. The application was approved subject to the following condition:

- The design and provision of non-building areas to the satisfaction of the Director of Planning or of the Town Planning Board.

65. The Board also decided to advise the applicant on the following:

- (a) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;
- (b) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) regarding the provision of fresh water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (c) to note the comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department that:
 - (i) the proposed maximum site coverage of 65%/50% under lease would exceed the permitted domestic site coverage under the Buildings Ordinance; and

R3 – Kadoorie Farm & Botanic Garden Corporation

Mr. Tony Nip] Representer's representative
Ms. Woo Ming Chuan]

R5 – WWF Hong Kong

Mr. Alan Leung - Representer's representative

R6 – Fan Fong Sang, Indigenous Inhabitants Representative
of Chek Keng Village

Mr. Fan Fong Sang - Representer
Mr. Poon Key Yuen, Jenson] Representer's representative
Mr. Kong Chee Cheung]

R7 – Sai Kung North Rural Committee

Mr. Mo Ka Hung] Representer's representative
Mr. Fan Fong San]

R9 – Chiu Kwok Ping

Mr. Chiu Kwok Ping - Representer

68. The Chairman extended a welcome and explained the procedures of the hearing. The Chairman then invited the representative of the PlanD to brief Members on the background of the representations. With the aid of a powerpoint presentation, Mr. David Ng (STP/STN, PlanD) made the following main points as detailed in the Paper:

Background

- (a) on 4.5.2012, the draft Chek Keng Development Permission Area Plan No. DPA/NE-CK/1 (the DPA Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). Except for about 2.24 ha of land zoned "Village Type Development" ("V"), the remaining areas (32.5 ha) had been designated as 'Unspecified Use' area;

- (b) the Chek Keng Development Permission Area (the Area) was surrounded by Sai Kung East (SKE) Country Park, and was next to Chek Keng Hau that was one of the scenic sea bays along the northern coast of SKE Country Park. The Area mostly comprised woodlands, shrublands, grasslands, wetlands, mangroves, streams, and fallow agricultural land. The coastal area and the mudflat stretches contained a variety of crustacean and marine life, and the Area was ecologically linked to SKE Country Park. Located in the middle part of the Area was the only recognized village in the Area, namely Chek Keng Village, which was largely abandoned;
- (c) the Area was rural in nature and was of high scenic value. There was an urgent need to better protect the natural and landscape character of the Area so as to avoid disturbance to the natural environment;
- (d) during the exhibition periods of the DPA Plan, a total of nine representations and no comment were received. Five of these representatives were supportive of or provided views and proposals on the DPA Plan; and the other four were adverse representations objecting to the DPA Plan;

Supportive Representations and Representations offering views and proposals (R1 to R5)

- (e) the five representations which were supportive and / or offered views and proposals on the DPA Plan were submitted by a member of the public (R1), Designing Hong Kong Limited (R2), Kadoorie Farm & Botanic Garden Corporation (R3), Hong Kong Bird Watching Society (R4), and WWF – Hong Kong (R5);

Grounds of Representations

- (f) R1 did not provide any grounds of representation and R2 to R5 supported the general planning intention of the DPA Plan as the Area

was of high ecological value. R3 to R5 also provided information to substantiate the ecological value of the Area as detailed in paragraph 2.4 of the Paper;

Representers' Proposals

- (g) the proposals of R1 to R5 were summarised as follows:
- (i) R2 and R3 proposed that the entire (or part of the) Area should be for conservation use and / or be given conservation zonings;
 - (ii) R5 proposed that the two natural stream courses and their riparian zones, a 30m-wide buffer area on both sides of the streams, and some dense woodland areas should be zoned "Conservation Area" ;
 - (iii) R5 proposed that the coastal area along the coastline of Chek Keng Hau should be zoned "Conservation Protection Area" to protect and retain the natural coastline and the coastal natural environment;
 - (iv) R3 proposed that the "V" zone should be limited to existing concreted areas (i.e. the areas with existing village houses) and R4 proposed that the extent of the "V" zone should be limited;
 - (v) R3 to R5 proposed that the Area (or the ecological sensitive parts of the Area) should eventually be incorporated into the Country Park to provide the best protection for the valuable species and habitats; and
 - (vi) R5 proposed that the Remarks of the 'Unspecified Use' area concerning the exemption of any diversion of streams, filling of land/pond or excavation of land for public works co-ordinated or implemented by the Government should be amended before the conservation zonings were in place to prevent those sensitive areas from being adversely affected;

Responses to Grounds of Representations and Proposals

- (h) PlanD's responses to the supportive representations were summarised below:
- (i) the supportive representations of R1 to R5 on the DPA Plan were noted;
 - (ii) the information to substantiate the ecological value of Chek Keng was noted. Such information would be taken into account and would serve as reference for subsequent preparation of OZP for the Area (R3 to R5);
 - (iii) the Director of Agriculture, Fisheries and Conservation advised that the protection of natural streams and coastlines of the Area and the natural coasts around Chek Keng Hau, as well as the provision of buffer to protect the natural streams and their riparian habitats by appropriate conservation zonings were generally supported. The detailed zoning boundaries and restrictions would be worked out during the OZP stage, taking into account relevant assessments/studies (R3 to R5);
 - (iv) the boundaries of the current "V" zone were broad-brush and drawn up provisionally and would be further reviewed and defined during the preparation of OZP to take account of the results of relevant assessments/ studies (R3 and R4);
 - (v) the proposed incorporation of the entire (or part of) Area as "Country Park" was under the jurisdiction of the Country and Marine Parks Board (CMPB) under the Country Parks Ordinance) (Cap. 208), which was outside the purview of the Board (R3 to R5); and
 - (vi) the Remarks of the "Unspecified Use" area was intended to allow flexibility for public works co-ordinated or implemented by the Government, which were generally necessary for provision, maintenance, daily operations and emergency repairs of local

facilities, such as sidewalks, footpath, handrail, sign boards, planters, manhole, etc., for the benefits of the public and/or environmental improvement. It was impractical to require government departments to obtain prior planning approvals before undertaking these works (R5);

Adverse Representations (R6 to R9)

- (i) the four adverse representations were submitted by the Indigenous Inhabitants Representative of Chek Keng Village (R6), Sai Kung North Rural Committee (SKNRC) (R7) and villagers of Chek Keng (R8 and R9) objecting to the DPA Plan;

Grounds of Representations

- (j) the grounds of R6 to R9's representations were:
 - (i) the area zoned "V" was too small (2.24 ha) and was substantially smaller than the area within the village 'environs' (VE) (R6);
 - (ii) the DPA Plan was published without fair, honest and open consultation with the village, the Rural Committee or Heung Yee Kuk (R6);
 - (iii) conservation and development should be undertaken on a balanced, equitable and fair basis (R6 and R7);
 - (iv) the private property rights of the land owners in Chek Keng were deprived. The small area of the "V" zone proposed in the DPA Plan would eradicate the village and deprive the villagers of the opportunity to return to live there in future (R6, R8 and R9);
 - (v) R6 commented that the DPA Plan undermined and deprived the private land title of indigenous inhabitants as protected by the Basic Law, and contravened the terms of the Block Crown Lease, which prescribed land uses such as houses and farm lands, with

no mentioning of greenbelt, conservation zones, country park, etc.;

Representers' Proposals

- (k) R7, R8, and R9 did not provide any proposals. The proposals put forth by R6 were summarised below:
- (i) the Government should withdraw the DPA Plan and not to gazette the OZP without confirmation of the VE and the "V" zone boundaries;
 - (ii) Small House applications on land within 100m of the old walled village should be processed by the Lands Department (LandsD) directly rather than being screened by the PlanD on a case by case basis;
 - (iii) the villagers would prepare a comprehensive development proposal with detailed data and information to the PlanD with the goal of achieving a balance between conservation and development; and
 - (iv) the Government was urged to provide the Area with transportation services and supporting road facilities so that villagers could return to live in the village;

Responses to Grounds of Representations and Proposals

- (l) PlanD's responses to R6 to R9 were summarised below:

"V" zone and Small House Applications

- (i) the current "V" zone boundaries were broad-brush and drawn up provisionally around existing village cluster, having regard to existing building structures, approved Small House applications and existing site conditions. The boundaries of the "V" zone

would be further reviewed and defined during the preparation of the OZP to take account of the results of relevant assessments/ studies (R6);

Without Fair Consultation

- (ii) in order to avoid unfavourable *fait accompli*, prior consultations with relevant stakeholders before the gazetting of the Plan had not been made. The public was consulted during the plan exhibition period and might submit representations to the Board for its consideration in accordance with the provisions of the Ordinance (R6);

Lack of Balance between Conservation and Development

- (iii) the Area mostly comprised woodlands, shrublands, grasslands, wetlands, mangroves, streams, and fallow agricultural land. The coastal area and the mudflat stretches contained a variety of crustacean and marine life, and the Area was ecologically linked to the SKE Country Park. Chek Keng Village was the only village that was located in the middle of the Area. Hence, the general planning intention of the Area was to protect its high conservation and landscape value and the rural settings, while reflecting the existing recognized village of Chek Keng. In the course of the preparation of OZP, detailed analysis and studies to establish the appropriate land uses would be conducted in order to strike a balance between conservation and development (R6 to R7);

Depriving Property Rights and Violating Basic Law

- (iv) preparation of the draft DPA Plan would unlikely constitute “deprivation” of property rights for the purpose of Article 105 of the Basic Law (BL105). Besides, insofar as it pursued the legitimate aim of providing better planning control and did not impose a disproportionate burden on the landowners concerned

in pursuing that aim, it did not appear inconsistent with the protection of property rights under Article 6 of the Basic Law (BL6) and BL105 (R6, R8 and R9);

- (v) imposing planning control on the area concerned by way of the draft DPA Plan did not appear inconsistent with the protection of lawful traditional rights and interests of the New Territories indigenous inhabitants under BL40 (R6);

Withdrawal of DPA Plan

- (vi) the Chief Executive in the 2010-2011 Policy Address had acknowledged the need to regulate land use of the Country Park enclaves to forestall human damage. The DPA plan was to provide planning guidance and development control pending the preparation of an OZP and to enable planning enforcement to be taken against any unauthorized development (R6);

Submission of Comprehensive Development Proposal by the Village

- (vii) in the preparation of the OZP, land use zonings for the Area would be comprehensively reviewed subject to the results of relevant assessments/ studies on various aspects. Relevant stakeholders would be consulted and their views would be taken into account, among others, where appropriate (R6); and

Provision of Road Transport Network

- (viii) assessment of necessary infrastructural provisions, and public utility facilities would be undertaken in the future formulation of specific land use proposals for the Area during preparation of OZP (R6).

R2's Proposals

- (m) R2 provided the following proposals that were not directly related to the DPA Plan:
- (i) the Government should urgently prepare DPA Plans for all areas which had yet to be covered by statutory plans;
 - (ii) the Government to prepare village layout plans (VLP) for all areas zoned "V" and to resume all land permitted for Small Houses development; and
 - (iii) LandsD should suspend the processing of land grant applications under the New Territories Small House Policy in order to avoid increasing development pressure and demand for compensation;

Responses to R2's Proposals

- (n) PlanD's responses to R2's proposals were summarised below:
- (i) it had been the Government's long-term target to prepare statutory plans for all areas of Hong Kong except areas covered/ to be covered by Country Park. Such task would be undertaken having regard to development pressure, priorities and resources availability;
 - (ii) the preparation of new VLP for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs, manpower and priority of works within the PlanD. For the new DPA Plans which had just been completed such as this DPA Plan, OZPs with specific land use zonings should be prepared before VLP could be contemplated. As the boundary of the "V" zone would be further reviewed and defined at the preparation of OZP stage, the need for preparation of new VLP for the "V" zone to be covered by the OZP would then be reviewed as appropriate; and

- (iii) processing of land grant applications in accordance with the New Territories Small House Policy was under the jurisdiction of the LandsD which was outside the purview of the Board; and

Consultations

- (o) during the two-month exhibition period, the draft DPA Plan was presented to the Tai Po District Council (TPDC) on 16.5.2012 and the SKNRC on 18.6.2012. The major views and comments on the DPA Plan were summarized as follows for Members' information :
 - (i) some members of the TPDC commented that the DPA Plan had violated the Basic Law as it deprived the development rights of land owners without compensation; the "V" zone should be extended to tally with the VE; local consultation should be conducted in particular with the SKNRC; the development rights of land owners should be respected in tandem with the need for environmental conservation; and the DPA Plan should be revised and re-submitted for TPDC's consideration after consultation with SKNRC, the relevant village representatives as well as district council members; and
 - (ii) some members of the SKNRC indicated that sufficient land should be reserved for Small House development and the Government should provide adequate supporting infrastructure facilities, including transport connection for Chek Keng.

PlanD's Views

- (p) based on the planning considerations and assessments in paragraph 5 of the Paper as summarised above, the PlanD considered that:
 - (i) the supportive views of Representations No. R1 to R5 on the DPA Plan, and the information to substantiate the ecological value of the Area provided by R3 to R5 were noted; and

- (ii) PlanD did not support the remaining parts of Representations No. R2 to R5 as well as Representations No. R6 to R9 and considered that no amendment should be made to the DPA Plan to meet these representations.

69. The Chairman then invited the representers and the representers' representatives to elaborate on their representations.

R2 - Designing Hong Kong Limited

Mr. Paul Zimmerman

70. Mr. Paul Zimmerman made the following main points:

- (a) they supported the DPA Plan. The Board should ensure that the PlanD had sufficient resources to prepare statutory plans for the remaining enclaves so as to protect these areas from devastation by uncontrolled developments;
- (b) Chek Keng was a very popular hiking trail. From his personal experience, there were only some camp grounds in the Area. Most existing buildings were deserted and there was no resident in Chek Keng Village. Hence, no existing residents would be affected by the DPA plan;
- (c) the Area was surrounded by the SKE and Sai Kung West Country Parks. In fact, most of the enclaves were located within these two Country Parks. It was necessary to determine the roles of the different enclaves. For example, the Chek Keng enclave should be for amenity purpose to support the visitors to the Country Parks. The role of each enclave would be determined based on a number of factors such as their natural character and environment, Small House demand and availability of road and sea accesses; and
- (d) the Board should request the Agriculture, Fisheries and Conservation Department (AFCD) and PlanD to jointly prepare a development plan

for the enclaves in the SKE and Sai Kung West Country Parks. The development plan would provide an overall context for the Government to determine the role of each enclave and / or planning of any road infrastructure in the country parks. Such a development plan would be useful for formulation of the OZP for each enclave.

R3 – Kadoorie Farm & Botanic Garden Corporation

Mr. Tony Nip

Ms. Woo Ming Chuan

71. Mr. Tony Nip made the following main points:
- (a) they had provided information about the high ecological value of the Area in their representation letter. In particular, the natural watercourses and their riparian zones, the mangrove ecosystem along the coast and the woodland areas were of very high ecological value and these areas were not suitable for development. Other than the protection of the main watercourse of the streams, the protection of their tributaries should also be taken into account when preparing the OZP;
 - (b) there was clear government policy to include the enclaves either within Country Parks or to include them into statutory plans;
 - (c) the Government should consider the infrastructure support needed for any development of these enclaves. If large-scale developments were to be proposed in the Area, it should be considered whether there would be adequate access for emergency vehicles or sewage collecting vehicles;
 - (d) there was particular concern on the provision of sewage treatment facilities for any large-scale development in the Area. Even if sewage was to be treated before discharge into Chek Keng Hau, given its enclosed inner bay location, it might be difficult to disperse the treated sewage in an environmentally acceptable manner; and

- (e) the Maclehorse Trail which traversed Chek Keng was a very popular hiking trail and was along the route of the annual Trail Walker event. The community would raise strong objection against any large scale development that would destroy the landscape of the Area. The Board should take into account the community interests when making a decision on the representations.

R5 – WWF –Hong Kong

Mr. Alan Leung

72. Mr. Alan Leung made the following main points:

- (a) they had provided information about the high ecological value of the Area in their representation letter;
- (b) Hong Kong had joined the Convention on Biological Diversity last year and it was mentioned in the Chief Executive’s 2013 Policy Address that a Bio-diversity Strategy and Action Plan for Hong Kong would be prepared in accordance with the requirements of the said Convention;
- (c) through conservation zonings, such as “Sites of Special Scientific Interests”, town planning had played an important role in the protection of bio-diversity in Hong Kong. They supported the PlanD to continue to formulate statutory plans to cover the enclaves and put those areas under statutory planning control;
- (d) during the formulation of the OZP, the green groups would provide data about the ecological value of the Area to the PlanD for their reference; and
- (e) they supported the DPA Plan as the Area was integrated with the SKE Country Park and was a very popular hiking trail for both locals and tourists that should be properly protected.

R6 – Fan Fong Sang, Indigenous Inhabitants Representative of Chek Keng Village

Mr. Fan Fong Sang

Mr. Poon Key Yuen, Jenson

Mr. Kong Chee Cheung

73. Mr. Fan Fong Sang made the following main points:

- (a) Chek Keng Village was a recognised village that had a history of some 200 years. In the 50's and 60's, some 100 to 200 people resided in the village and made a living by farming and fishing. In the 70's, villagers started moving out of the Area. However, some villagers now wished to move back to the village to retire;
- (b) the villagers considered that the "V" zone shown on the DPA Plan was unacceptable. Whilst only one Small House had been built in the village, it should be noted that there were about 1,000 indigenous villagers with the right to build Small Houses in Chek Keng Village; and
- (c) the Board should strike a suitable balance between conservation and development. While villagers agreed in-principle to the need for conservation of the natural environment, the Board should have regard to the villagers' wish to move back to live in Chek Keng Village. There could be ways to develop the Area without causing adverse impacts on the natural environment.

74. Mr. Poon Key Yuen, Jenson made the following main points:

- (a) he was the consultant commissioned by the villagers to prepare a development plan for Chek Keng. He said that the Government had previously agreed not to include land within 500 feet from the old villages into Country Parks and that was clearly recorded in official minutes. The Government should not impose planning control on all enclaves just because of the Tai Long Sai Wan incident. It was wrong to assume that all villagers would destroy the natural environment in a

similar manner when they developed their land;

- (b) Chek Keng Village had a VE and villagers were allowed to apply for Small House developments within this VE. However, the Government had refused to build a road for the village and hence, the place was not convenient for living. The Board should consider the need to provide a road to Chek Keng;
- (c) within the “V” zone on the DPA plan, there was a lot of government land and abandoned agricultural land. The private land within the “V” zone was only sufficient for building eight to ten Small Houses. It was unfair to the villagers as the Government published the DPA plan without consulting them. The DPA plan should not only focus on conservation, there should be a balance between conservation and development;

[Dr. C.P. Lau and Mr. Rock C.N. Chen left the meeting at this juncture.]

- (d) the villagers of Chek Keng Village had engaged him as consultant to formulate a development plan for the village, and the key features of the development plan were highlighted below:
 - (i) an undeveloped area (some 300,000 ft²) within the VE, which was covered with mature trees, was proposed to be conserved;
 - (ii) in view of (i), two areas that comprised mainly private land and were flat and with little trees, were proposed as extension areas for the “V” zone. The two extension areas had an area of about 200,000 ft² (excluding an area that would be used for road access);
 - (iii) a buffer area of 10m was proposed along the riparian zones of the two stream courses in Chek Keng;
 - (iv) the coastal area with mangroves was proposed as coastal protection area for conservation;

- (v) three rural-style hotel clusters were proposed to be built;
 - (vi) the Holy Family Chapel was proposed to be graded as a historic building;
 - (vii) organic farms, camp site, a University of Ecology and Agriculture and an elderly and disabled centre were also proposed; and
 - (viii) a central bio-sewage treatment system was proposed. The sewage generated by the development would be disintegrated through a biological process and no sewage would be discharged into the natural environment; and
- (e) a more detailed report about the development plan for Chek Keng would be submitted to the Government.

75. Mr. Kong Chee Cheung made the following main points:

- (a) with regard to the proposal of providing a road to Chek Keng, it should be noted that in the pamphlets about Country Parks printed by the Government in the 1970's, it was clearly indicated that villagers would be allowed to drive to the Country Parks; and
- (b) the Tai Long Sai Wan incident, which was initiated by a non-indigenous villager, should not be used as an excuse to sterilise development of all other villages within the enclaves.

R7 – Sai Kung Rural North Rural Committee

Mr. Mo Ka Hung

Mr. Fan Fong San

76. Mr. Mo Ka Hung made the following main points:

- (a) he was the deputy chairman of the Sai Kung North Rural Committee (SKNRC) and the SKNRC opposed the DPA plan;

- (b) as the proposed “V” zone was only based on the cluster of existing village houses, it could not accommodate future development needs in the village. The “V” zone should tally with the VE;
- (c) it was noted that the Department of Justice’s view was that since the DPA plan was for pursuing the aim of providing better control, the DPA Plan did not appear inconsistent with the protection of property rights under Articles 6 and 105 of the Basic Law. However, SKNRC held a contrary view and considered that the DPA plan had deprived their property rights as the DPA plan might not really provide better planning control. In their view, allowing a place to develop on its own accord might sometimes be better than Government’s active planning;
- (d) in the past, villagers could apply to the LandsD for Small House development within the VE. At present, the DPA plan had imposed extra burden on villagers to require the submission of planning application for the Board’s consideration;
- (e) it was unfair for the Government to publish the DPA plan without prior consultation with the villagers, SKNRC and the Heung Yee Kuk. The so-called *fait accompli*’ principle was not reasonable;
- (f) the villagers’ past efforts to preserve the natural environment of the Area should not be ignored. Without their efforts, features like wetland, mangroves and dense woodland in the Area would have been destroyed. The Government’s real motive for preparing the DPA plan was not for conservation, and was for imposing control on land in the New Territories;
- (g) there was a historic reason to the 54 enclaves. In the 1978/1979, when the then Government set up Country Parks, it was agreed with the villagers that areas within 300 ft from the old village and areas where villagers were residing would not be included into the Country Park

boundaries. Hence, the enclaves were intended to be a win-win solution that balanced conservation and the rights of villagers. However, the Government now insisted to impose planning controls in the enclaves due to a single incident in Tai Long Sai Wan. The Government had zoned the villager's land for conservation purpose without any compensation; and

- (h) similar to the village development plans formulated by the Government in the past, the DPA plan would restrict development and hence create planning blight on a lot of private land in the New Territories.

77. As the presentations were completed, the Chairman invited questions from Members.

Existing Population and Small House Demand

78. In response to the Vice-chairman's question about the existing population in Chek Keng, Ms. Jacinta Woo (DPO/STN, PlanD) informed Members that according to the 2006 Population By-census data as indicated in the Explanatory Statement of the DPA Plan, there was a population of 84 in Chek Keng; and according to the 2011 Population Census data, the population of Chek Keng was 34. In response to a Member's question, Ms. Jacinta Woo said that most of the existing houses in Chek Keng were abandoned. During holidays, however, there were some stores opened for business. A few houses were kept in good conditions, but it was unclear whether there were people living in those houses. Mr. Poon Key Yuen (R6) said that although there was currently a low population in Chek Keng, it did not mean that there was no demand for building Small Houses from indigenous villagers.

79. The Vice-chairman asked DPO/STN about the Small House applications in Chek Keng Village. Ms. Jacinta Woo replied that there was only one approved Small House application in Chek Keng Village and there were 18 Small House applications being processed by the District Lands Officer (DLO). Furthermore, according to DLO, the village representative of Chek Keng Village had not submitted any 10-year projection of Small House demand for Chek Keng Village. Mr. Fan Fong San (R6/R7) said that

according to the information available to him, there were 180 indigenous villagers with the right to build Small House in Chek Keng Village in the last century. Assuming that there were three to four descendents from each of these indigenous villagers, it was estimated that currently there were about 1,000 indigenous villagers with the right to build Small House in Chek Keng Village.

Ecological Value of the Area

80. A Member asked whether an ecological survey had been conducted for the abandoned agricultural land in the Area. In response, Ms. Jacinta Woo said that an ecological assessment had not been prepared for the DPA plan and there was no information on the ecological value of the abandoned agricultural land. However, environmental groups had provided information on the ecological value of the Area in their representations, and the AFCD had advised that those information were based on past records. In the course of preparing the OZP, there would be more detailed assessment of the information. Mr. Tony Nip (R3) said that their information about the ecological value of Chek Keng was based on ecological surveys conducted in 2012. Their organisation had been conducting on-going ecological surveys for many enclaves, and other green groups such as WWF-Hong Kong had been conducting surveys on the bio-diversity of areas with high ecological value. The green groups would provide updated information to the Government to assist them to formulate the OZP at a later stage. Mr. Poon Key Yuen (R6) said that they had also engaged consultants to prepare a year round (four-season) ecological survey and the information would be submitted to the PlanD later.

Access to Chek Keng

81. A Member asked whether the representatives' proposal of building a road to Chek Keng was feasible. In response, Ms. Jacinta Woo said that Chek Keng was currently accessible on foot via the Maclehorse Trail and Pak Tam Road and by boats via Wong Shek Pier. The Government currently had no plan to build a road to Chek Keng. Such a road proposal, which would pass through the Sai Kung North Country Park, would need to be subject to detailed assessments.

82. In response to a Member's question about the time for walking between Chek Keng and Pak Tam Road, Mr. Kong Chee Cheung (R6) said that it would take about 45 minutes for him to walk uphill from Chek Keng but it would take a shorter time to walk downhill. He reiterated the point that the Government had previously indicated that villagers were to be allowed to drive to Country Parks. He said that currently it was necessary to obtain permits to drive onto Pak Tam Road and if a road was to be built in future, the Government could also restrict access for only environment friendly vehicles.

83. Mr. Poon Key Yuen (R6) said that although the villagers would welcome the provision of an access road to Chek Keng, their development plan was not reliant on availability of road access. The area was currently accessible by boats and they could also provide access by electric golf cars on the existing pathway. However, they proposed that the pathway could be widened from 1.5m to 2m to facilitate universal access, including access for people with disabilities.

Other Matters

84. In response to a Member's question, Ms. Jacinta Woo said that the Holy Family Chapel was proposed to be designated as a Grade 2 historic building but the grading was subjected to confirmation by the Antiquities Advisory Board.

85. A Member asked R6 how they were to implement the development plan. Mr. Poon Key Yuen said that the development plan was a concensus reached among the Chek Keng villagers. They planned to implement the development plan in phases through setting up a development fund. They would first implement the organic farms, village hotel and camp site proposals, which did not require a lot of funding. Their intention was to develop the area mainly by the indigenous villagers although they would not preclude the possibility of joint venture with some outside parties at a later stage.

86. As the representers and the representers' representatives had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedures had been completed and the Board would deliberate on the representations in their absence and inform the representers of the Board's decision in due course. The Chairman thanked the PlanD's representatives, the representers and representers' representatives for attending the hearing. They all left the meeting at this point.

[Ms. Christina M. Lee left the meeting at this point.]

Deliberation

87. The Chairman invited Members to consider the representations, taking into consideration all the written submissions and the oral presentations at the meeting.

88. Members noted a number of matters which were similar in the consideration of representations for other DPA plans. These matters were that the DPA plan was an interim plan to be replaced by an OZP in three years' time and Plan D would take into account the assessments to be undertaken and the detailed zoning proposals of the representers during the formulation of the OZP; whether an area of land should be included into the Country Park was under the jurisdiction of the Country and Marine Parks Board and outside the purview of the Board; the "V" zone shown on the DPA plan was broad-brush and provisionally drawn up and would be further reviewed and defined during the preparation of the OZP; the Remark for the 'Unspecified Use' area to exempt certain public works from planning application was acceptable as government departments would ensure that the public works being carried out were necessary and would not create unacceptable impacts and that some works were for emergency repairs and it was not practical to require the submission of planning applications; and the public was normally consulted after the publication of the DPA plan. With regard to the development plan presented by R6 at the meeting, Members noted that R6 would submit a detailed report to the PlanD for its consideration during the preparation of the OZP.

89. In view of the above, Members agreed to note the supportive views of Representations No. R1 to R5 on the DPA Plan, as well as the information provided by Representations No. R3 to R5 to substantiate the ecological value of the Area. Members agreed not to uphold the remaining parts of Representations No. R2 to R5 and Representations No. R6 to R9 and not to make any amendment to the DPA Plan. Members then went through the reasons for not upholding the representations as detailed in paragraph 7.2 of the Paper and the responses to the proposals of R2 which were not directly related to the DPA Plan as detailed in paragraph 7.3 of the Paper and considered that they were appropriate.

[Ms. Winnie M.W. Wong left the meeting at this point.]

Representation No. R1

90. After further deliberation, the Board noted the support of R1.

Representation No. R2

91. After further deliberation, the Board noted the support of R2 and decided not to uphold the remaining parts of the Representation of R2 for the following reason:

- the DPA Plan was an interim plan which would be replaced by an OZP within three years. Detailed land use zonings would be worked out during the OZP stage taking into account relevant assessments/studies.

92. The Board also agreed to advise R2 of the following:

- (a) it had been the Government's long-term target to prepare statutory plans for all areas of Hong Kong except areas covered/ to be covered by Country Park. Such task would be undertaken having regard to development pressure, priorities and resources availability;
- (b) the preparation of new village layout plans (VLP) for villages covered by

existing OZPs would depend on a number of factors such as implementation prospect of the VLPs, manpower and priority of works within the PlanD. For the new DPA Plans which had just been completed such as this DPA Plan, OZPs with specific land use zonings should be prepared before VLP could be contemplated. As the boundary of the “V” zone would be further reviewed and defined at the preparation of OZP stage, the need for preparation of new VLP for the “V” zone to be covered by the OZP would then be reviewed as appropriate; and

- (c) processing of land grant applications in accordance with the New Territories Small House Policy was under the jurisdiction of the LandsD which was outside the purview of the Board.

Representations No. R3, R4 and R5

93. After further deliberation, the Board noted the support of R3 to R5 and decided not to uphold the remaining parts of the representations of R3 to R5 for the following reasons:

- (a) the DPA Plan was an interim plan which would be replaced by an OZP within three years. Detailed land use zonings would be worked out during the OZP stage taking into account relevant assessments/studies (*R3 and R5*);
- (b) the boundaries of the current “V” zone were broad-brush and drawn up provisionally around existing village cluster, having regard to existing building structures, approved Small House applications and existing site conditions. In general, areas of difficult terrain, dense and mature vegetation, and ecologically sensitive areas were not included. Notwithstanding, the boundaries of the “V” zone would be further reviewed and defined during the preparation of OZP to take account of the results of relevant assessments/ studies on various aspects including Small House demand and developments, conservation value, the

environmental and infrastructural constraints, and landscape character, etc. (R3 and R4);

- (c) designation of Country Park was under the jurisdiction of the Country and Marine Parks Board governed by the Country Parks Ordinance (Cap. 208) which was outside the purview of the Board (R3, R4 and R5); and
- (d) the Remarks of the “Unspecified Use” area was intended to allow flexibility for public works co-ordinated or implemented by the government, which were generally necessary for provision, maintenance, daily operations and emergency repairs of local facilities, such as sidewalks, footpath, handrail, sign boards, planters, manhole, etc., for the benefits of the public and/or environmental improvement. It was impractical to require government departments to obtain prior planning approvals before undertaking these works (R5).

Representation No. 6

94. After further deliberation, the Board decided not to uphold the representation of R6 for the following reasons:

- (a) the current “V” zone boundaries were broad-brush and drawn up provisionally around existing village cluster, having regard to existing building structures, approved Small House applications and existing site conditions. The DPA Plan was an interim plan which would be replaced by an OZP within three years. The boundaries of the “V” zone would be further reviewed and defined during the preparation of the OZP to take account of the results of relevant assessments/ studies on various aspects including Small House demand and developments, conservation value, the environmental and infrastructural constraints, and landscape character, etc.;
- (b) in order to avoid unfavourable *fait accompli*, prior consultations with relevant stakeholders before the gazetting of the Plan had not been made.

The public was consulted during the plan exhibition period and might submit representations to the Board. All representations received would be heard by the Board in accordance with the provision of the Ordinance;

- (c) the Area mostly comprised woodlands, shrublands, grasslands, wetlands, mangroves, streams, and fallow agricultural land. The coastal area and the mudflat stretches contained a variety of crustacean and marine life, and the Area was ecologically-linked to the SKE Country Park. Located in the middle part of the Area was the single recognized village in the Area, namely Chek Keng Village. Hence, the general planning intention of the Area was to protect its high conservation and landscape value and the rural settings and to reflect the existing recognized village of Chek Keng. In the course of the preparation of OZP, detailed analysis and studies to establish the appropriate land uses would be conducted in order to strike a balance between conservation and development;
- (d) preparation of the draft DPA Plan would unlikely constitute “deprivation” of property rights for the purpose of Article 105 of the Basic Law (BL105). Besides, insofar as it pursued the legitimate aim of providing better planning control and did not impose a disproportionate burden on the landowners concerned in pursuing that aim, it did not appear inconsistent with the protection of property rights under Article 6 of the Basic Law (BL6) and BL105;
- (e) imposing planning control on the area concerned by way of the draft DPA Plan did not appear inconsistent with the protection of lawful traditional rights and interests of the New Territories indigenous inhabitants under BL40;
- (f) the Chief Executive in the 2010-2011 Policy Address had acknowledged the need to regulate land use of the Country Park enclaves to forestall human damage. The DPA plan was to provide planning guidance and development control pending the preparation of an OZP and to enable planning enforcement to be taken against any unauthorized development;

- (g) in the preparation of the OZP, land use zonings for the Area would be comprehensively reviewed subject to the results of relevant assessments/studies on various aspects. Relevant stakeholders would be consulted and their views would be taken into account, among others, where appropriate; and
- (h) assessment of necessary infrastructural provisions, and public utility facilities would be undertaken in the future formulation of specific land use proposals for the Area during preparation of OZP.

Representations R7

95. After further deliberation, the Board decided not to uphold the representation of R7 for the following reason:

- the Area mostly comprised woodlands, shrublands, grasslands, wetlands, mangroves, streams, and fallow agricultural land. The coastal area and the mudflat stretches contained a variety of crustacean and marine life, and the Area was ecologically-linked to the SKE Country Park. Located in the middle part of the Area was the single recognized village in the Area, namely Chek Keng Village. Hence, the general planning intention of the Area was to protect its high conservation and landscape value and the rural settings and to reflect the existing recognized village of Chek Keng. In the course of the preparation of OZP, detailed analysis and studies to establish the appropriate land uses would be conducted in order to strike a balance between conservation and development.

Representations R8 and R9

96. After further deliberation, the Board decided not to uphold the representations of R8 and R9 for the following reason:

- preparation of the draft DPA Plan would unlikely constitute “deprivation” of property rights for the purpose of Article 105 of the Basic Law (BL105). Besides, insofar as it pursued the legitimate aim of providing better planning control and did not impose a disproportionate burden on the landowners concerned in pursuing that aim, it did not appear inconsistent with the protection of property rights under Article 6 of the Basic Law (BL6) and BL105.

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/ST/784

Proposed Shop and Services (Barber Shop) in “Industrial” zone, Unit 14, G/F, Century Industrial Centre, 33-35 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories
(TPB Papers 9268)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

97. The Chairman informed Members that the applicant had indicated that she would not attend the meeting. Ms. Jacinta Woo (District Planning Officer/ Shatin, Tai Po and North (DPO/STN), PlanD was invited to the meeting at this point.

98. The Chairman invited DPO/STN, PlanD to brief Members on the application. With the aid of a powerpoint presentation, Ms. Jacinta Woo presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for Shop and Services (Barber Shop) use at the ground floor of Century Industrial Centre, which fell

within an area zoned “Industrial” on the draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/27;

- (b) the Site was currently used as a barber shop without valid planning permission. The application premises had no direct street frontage but was accessible through a doorway leading from the corridor within the industrial building, which also served the vacant unit located to the opposite of the application premises;
- (c) on 10.8.2012, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reason was:
 - The proposed development did not comply with the Town Planning Board Guidelines for Use/Development within “I” Zone (TPB PG-No. 25D) in that means of escape separated from the industrial portion was not available for the application premises. The proposed barber shop was unacceptable from fire safety point of view;
- (d) on 21.11.2012, the applicant applied for a review of the RNTPC’s decision. The applicant considered that the rejection decision, based on fire safety angle, to be unreasonable. The applicant indicated that she would seek advice from a professional fire engineering company with a view to proposing improvement measures to address the fire safety issues for the Board’s consideration. However, the applicant had not submitted any further information;
- (e) previous application – there was a previous application (No. A/ST/790) for the same use submitted by the same applicant on the application premises. The previous application was rejected by the Board on 3.12.2010 upon review for the same reasons as the subject planning application;
- (f) departmental comments - comments from relevant government

departments were detailed in paragraph 5 of the Paper. The District Lands Officer/Shah Tin, Lands Department indicated that the subject lot should not be used for any purpose other than industrial or godown purposes and the use under application was not permitted under the lease. The Director of Fire Services (DFS) objected to the application at the section 16 stage from the fire safety point of view as the means of escape from the premises was not totally separated from the industrial portion of the building. In the section 17 review stage, DFS maintained its view of objecting to the review application and provided further comments indicating that industrial uses and commercial uses were generally incompatible uses from the fire safety point of view. Without means of escape separated from the industrial portion, occupants would transverse the industrial portion in the course of escape in case of fire. Such persons would be exposed to higher risks, which they would neither be aware of nor be prepared to face. Other Government departments maintained their previous views of having no adverse comment or no objection to the planning application;

- (g) public comments – one public comment was received on the review application from the Incorporated Owners of Century Industrial Centre. The commenter objected to the use of the application premises by the tenant as barber shop as there was legal dispute between the owner of the premises and the commenter on the water bills aspect; and
- (h) PlanD's view - the PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
 - (i) according to the Town Planning Board Guidelines No. 25D, FSD should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. The subject premises had no direct street frontage but was accessible through a doorway leading from the corridor within the industrial building. There were existing industrial uses which shared the same corridor within the building.

- (ii) hence, the proposed development did not comply with TPB PG-No. 25D in that means of escape separated from the industrial portion was not available for the application premises. In this regard, FSD objected to the review application and considered that the proposed barber shop was unacceptable from the fire safety point of view;

- (iii) the applicant had stated that advice would be sought from a professional fire engineering company with a view to proposing improvement measures to address the fire safety issues for the Board's consideration, but no further information had been submitted by the applicant. There was therefore no change in planning circumstances compared with the earlier planning application which was rejected by the RNTPC on 10.8.2012; and

- (iv) the application premises was the subject of a previous application (No. A/ST/790) for the same use submitted by the same applicant. There had been no material change in the planning circumstances since the rejection of the previous review application in December 2010 which warranted a departure from the Board's previous decisions;

99. As Members had no question to raise, the Chairman thanked DPO/STN for attending the meeting and she left the meeting at this point.

[Mr. Wilton W.T. Fok left the meeting at this point.]

Deliberation

100. The Chairman said that the applicant had indicated that she would seek advice from a professional fire engineering company and propose improvement measures to address the fire safety issues for the Board's consideration. However, no further information had been submitted. As the applicant had not provided any new information to support the review application, Members agreed that the application should be rejected.

101. After further deliberation, the Board decided to reject the application. Members then went through the rejection reason as stated in paragraph 8.1 of the Paper and considered that it was appropriate. The reason was:

- the proposed development did not comply with the Town Planning Board Guidelines for Use/Development within "Industrial " Zone (TPB PG-No. 25D) in that means of escape separated from the industrial portion was not available for the application premises. The proposed barber shop was unacceptable from the fire safety point of view.

102. The meeting was adjourned for lunch break at 1:10pm.

103. The meeting was resumed at 2:15 p.m.

104. The following Members and the Secretary were present in the afternoon session:

Mr. Thomas Chow	Chairman
Mr. Stanley Y.F. Wong	Vice-Chairman
Mr. Timothy K.W. Ma	
Professor Edwin H.W. Chan	
Professor Eddie C.M. Hui	
Dr. C.P. Lau	
Mr. Roger K.H. Luk	
Miss Bonnie J.Y. Chan	
Professor K.C. Chau	
Mr. H.W. Cheung	
Mr. Ivan C.S. Fu	
Mr. Sunny L.K. Ho	
Mr. Lincoln L.H. Huang	
Ms. Janice W.M. Lai	
Ms. Christina M. Lee	
Mr. H.F. Leung	
Deputy Director of Environmental Protection	
Mr. C.W. Tse	
Director of Lands	
Ms. Bernadette Linn	
Director of Planning	
Mr. K.K. Ling	

Agenda Item 6

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/TW/435

Renewal of Planning Approval for Temporary Shop and Services (Motor-vehicle Showroom) Use and Temporary Minor Relaxation of Non-domestic Gross Floor Area Restriction for a Period of 3 Years in “Residential (Group A) 6” zone, Portion of Car Park at Level 7, Discovery Park, 398 Castle Peak Road, Tsuen Wan

(TPB Paper No. 9266)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

105. As the shopping centre at Discovery Park was owned by New World Development Co. Ltd., the following Members had declared interests on this item:

Dr. C.P. Lau) had business dealings with Kenneth To &
Mr. Patrick H.T. Lau) Associated Ltd., the applicant’s consultant.

Mr. Dominic K.K. Lam - had business dealings with Kenneth To &
Associated Ltd., the applicant’s consultant, and
with New World Development Co. Ltd.

Mr. Ivan C.S. Fu - had business dealings with New World
Development Co. Ltd.

106. Members agreed that the interests of Dr. C.P. Lau and Mr. Patrick H.T. Lau were indirect as they had no direct involvement in the subject application. They should be allowed to stay at the meeting.

107. Members also agreed that the interests of Mr. Dominic K.K. Lam and Mr. Ivan C.S. Fu were direct and they should be invited to withdraw from the meeting. The meeting noted that Mr. Patrick H.T. Lau and Mr. Dominic K.K. Lam had already left the meeting while Dr. C.P. Lau and Mr. Ivan C.S. Fu had not yet returned.

108. The following representatives of the Government and the applicant's representatives were invited to the meeting at this point.

Mr. Wilson W.S. Chan District Planning Officer/Tsuen Wan and West
Kowloon (DPO/TWK), Planning Department
(PlanD)

Mr. Y.W. Cheung Senior Engineer/Tsuen Wan (SE/TW), Transport
Department (TD)

Mr. Kenneth To)

Mr. Peter Lam)

Mr. Kelvin Leung)

Mr. Henry Au)

Mr. Dominic Lung)

Ms. Kitty Wong)

Mr. Au Yeung Tin Lok)

Mr. Choi Chi Fun)

Mr. Chan Wah Hon)

Mr. Yu Kwok Chiu)

Mr. Chung Sui Man)

Mr. Lai Wai Pong) Applicant's representatives

Mr. Hung Piu Lun)

Mr. Wan Siu Shing)

Mr. Chan Fong Kwan)

Mr. Lam Shui Ho)

Mr. Lam Shui Ching)

Mr. Wan Kin Tak)

Mr. Chan Hon Fai)

Mr. Chiu Wing Ngai)

Mr. Yeung Chun Hung)

Mr. Robert Hu)

Ms. Kathy Wan)

Mr. Kwok Ka Fai)

109. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TWK to brief Members on the background of the application.

110. With the aid of some tables and plans, Mr. Wilson Chan did so as detailed in the Paper and made the following main points:

- (a) the applicant submitted an application for the renewal of planning permission for temporary shop and services (motor-vehicle showroom) use and temporary minor relaxation of non-domestic gross floor area (GFA) restriction, both for a period of 3 years, at a portion of the car park at Level 7, Discovery Park, 398 Castle Peak Road, Tsuen Wan (TWTL 361) (the Premises) which was zoned “Residential (Group A) 6” (“R(A)6”) on the Tsuen Wan Outline Zoning Plan (OZP). The proposed temporary motor-vehicle showroom covered a total GFA of 4,333m² and would affect 156 car parking spaces serving the commercial portion of the existing development;
- (b) the proposed temporary motor-vehicle showroom and temporary minor relaxation of non-domestic GFA restriction had been approved by the Board three times before under application Nos. A/TW/346, A/TW/388 and A/TW/407. The last application (A/TW/407) was approved by the Metro Planning Committee (MPC) on 21.8.2009 for a period of three years (i.e. up to 21.8.2012);
- (c) the current application was rejected by MPC on 10.8.2012 for the reason that there was insufficient information in the submission to demonstrate that with the proposed conversion of 156 commercial parking spaces for motor-vehicle showroom use, sufficient commercial car parking spaces would be provided to meet the requirement under the Hong Kong Planning Standards and Guidelines to serve the commercial portion of the

existing development on the application site.

- (d) the further justifications in support of the review submitted by the applicant were set out in paragraph 3 of the Paper and summarised as follows:
- (i) the requirement stipulated in the lease for the provision of 1000 car parking spaces at Discovery Park was based on the then prevailing Hong Kong Planning Standards and Guidelines (HKPSG) which was outdated. According to the current HKPSG, the car parking requirements at Discovery Park should be 769 spaces. After the conversion of 156 car parking spaces on L7, the remaining car parking spaces (i.e. 844 nos.) would still be able to meet the requirement under the current HKPSG;
 - (ii) the parking records obtained from the car park operator revealed that adequate surplus car parking spaces could be provided at all times and the car parking spaces provided could meet the anticipated parking demand in 2015 even upon the conversion of 156 spaces for the proposed temporary motor-vehicle showroom;
 - (iii) from June 2011 to May 2012, only 271 to 316 monthly parking permits were issued to residents of Discovery Park each month, showing a low utilization rate of car parking spaces. The requirement to meet the needs for car parking spaces by Discovery Park had been fully addressed and the rights of the residents at Discovery Park had never been jeopardized;
 - (iv) the car parking provision mentioned in the Master Layout Plan under lease was a description rather than a designation. The applicant would apply for a temporary waiver from LandsD;
 - (v) according to the Second Parking Demand Study, there was a surplus

of about 4,900 “usage-related” private car parking spaces in Tsuen Wan District for the year 2006-2011, showing that there was sufficient provision of car parking spaces in Tsuen Wan;

- (vi) according to the Parking Demand Study conducted by the applicant’s traffic consultant, upon the conversion of 156 car parking spaces at L7, there would still be surplus car parking spaces available for users at all times even during festival days and weekends before festival days. The proposed motor-vehicle showroom at L7 would represent a more efficient use of surplus car parking spaces at the subject premises;
- (vii) the motor-vehicle showroom was a suitable temporary use for the under-utilized car parking area of Discovery Park. The Premises was conveniently located with easy access by both private and public transportation. A footbridge along the northern edge of Discovery Park provided direct linkage with the MTR Tsuen Wan Station. The temporary showroom was considered not incompatible with the retail podium uses of the existing comprehensive commercial/residential development;
- (viii) the space requirement of a second-hand motor-vehicle showroom was much more demanding than that required by a motor-vehicle showroom for new cars due to its nature of operation. Currently, these showrooms were located in existing car parks where they were accessible by vehicles and were provided with adequate floor space for the parking/displaying of a large number of vehicles. With very few purposely designed premises for such showrooms available, such as the Hong Kong International Trade and Exhibition Centre in Kowloon Bay, most second-hand motor-vehicle showrooms had to use illegal or unauthorised premises;
- (ix) the current operator, Automall, had been operating a motor-vehicle

showroom at the Premises since 2007. The company had an 11-year track record of offering a fair trading platform for buyers and sellers of used vehicles; and

- (x) the motor vehicle showroom operating at the Premises provided employment opportunities for hundreds of individuals. Moreover, the showroom provided business opportunities for ancillary services such as banks, insurance, vehicle beauty, car-repair and check-up services, etc. The closure of the vehicle showroom would affect the livelihood of the individuals employed by the company and by its sub-tenants;

- (e) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. The Commissioner for Transport (C for T)) commented that the proposal would be in breach of the waiver requirement imposed by Lands Department (LandsD) on maintaining a minimum of 672 residential parking spaces as some residential car parking spaces would need to be used for commercial parking purposes. On the other hand, if LandsD’s waiver requirements were strictly adhered to, the proposal to convert parking spaces at Level 7 into a motor-vehicle showroom would cause the provision of commercial parking spaces to be grossly inadequate. The 1,000 parking spaces in Discovery Park were intended to meet its parking needs as there were no public parking spaces in the vicinity. The illegal parking problems at Mei Wan Street and the resulting traffic problems were likely related to the management of the car parking spaces at Discovery Park. The traffic survey conducted by the applicant’s consultants showed that the actual demand for commercial parking spaces was 361 spaces, much higher than both the HKPSG requirement (239 spaces) and the provision specified in the MLP (328 spaces). Moreover, C for T considered the applicant’s proposal to adopt the lower end of the HKPSG parking standards to calculate the parking requirements for the existing development to be inappropriate. It was also noted that the residential parking fees for the subject site were

relatively high in comparison with the parking fees of other residential developments in the vicinity. In this regard, the applicant's claim that the residential parking needs had been met was doubted;

- (f) public comments – during the statutory publication period of the review application, 491 public comments were received with one public comment from a Tsuen Wan District Council Member supporting the application and the remaining 490 public comments from the Estate Owners' Committee of Discovery Park and local residents objecting to the application. During the publication of further information submitted by the applicant, 31 public comments were received with 27 public comments from the operator, tenant motor trading companies and employees of the motor-vehicle showroom supporting the application. The remaining four public comments were from the District Councillor of the concerned constituency, the Discovery Park Estate Owners' Committee, a member of the Owners' Committee of Discovery Park and Designing Hong Kong, objecting to the application. The public comments supporting the review application were on the grounds that the traffic condition around Discovery Park was smooth and there were sufficient parking facilities; the vehicle showroom at the Premises was one of a few legal indoor second-hand vehicle showrooms in Hong Kong; the Board had approved the showroom for three times and there was no change in circumstances; and disapproval of the application would seriously affect the livelihood of a large number of the people who depended on the showroom. The main grounds of the public comments objecting to the application were that upon conversion for the showroom, the car parking spaces that would remain could not cope with the demand arising from the shopping centre and visitors; the owner of the car park charged exorbitant monthly parking fees to create an illusion of low residential car parking demand; motor-vehicle showroom use deviated from the planning intention of residential zone; the showroom would adversely affect the security of Discovery Park as more outsiders would loiter around the lift lobbies; as the motor-vehicle showroom shared the

lifts with the residents, the lifts could not cope with the increased demand; and the motor-vehicle showroom and its related trial run activities would bring adverse traffic impact to Mei Wan Street; and

(g) PlanD's view – PlanD did not support the application based on the assessment in paragraph 7 of the Paper, which were summarised below:

- (i) the proposed temporary motor-vehicle showroom was not incompatible with the retail podium uses of the comprehensive commercial/residential development. It did not result in any actual increase in development bulk or intensity. Also, the proposed relaxation of non-domestic GFA restriction was only on a temporary basis for 3 years and was considered not unacceptable. However, the prerequisite in allowing such conversion was that it would not adversely affect the number of car parking spaces serving the subject development;
- (ii) the car park of Discovery Park provided 1,000 car parking spaces, of which 672 spaces were designated for domestic (i.e. residential) purpose while the remaining 328 spaces were designated for non-domestic (i.e. commercial) purpose. Under the terms of the waiver for the previously approved temporary motor-vehicle showroom use, the 672 car parking spaces for residential use were required to be maintained. The applicant's proposal was to convert 156 spaces out of the 328 car parking spaces for non-domestic purpose into temporary motor-vehicle showroom use, leaving 172 spaces to serve the commercial development of Discovery Park;
- (iii) C for T considered that, based on the HKPSG requirements and the latest parking situation of the site, a higher end requirement of 239 commercial car parking spaces should be provided at the site to meet the demand. As the proposed temporary motor-vehicle showroom would affect 156 spaces, only 172 parking spaces would remain to

serve the commercial development of Discovery Park. Such a provision had failed to meet the HKPSG requirement by a deficit of 67 parking spaces. C for T also observed from the applicant's Parking Demand Study that the actual commercial parking space utilization could be as high as 421 spaces (or 452 spaces if the day parking were classified as commercial parking) requiring a number of residential car parking spaces to be utilized as commercial parking space;

- (iv) C for T considered that two major problems were not yet addressed by the applicant, i.e. the use of residential parking spaces for commercial parking purposes despite the LandsD's waiver requirements that a minimum of 672 residential parking spaces needed to be maintained; and that as the existing commercial parking demand was already much more than that required under the HKPSG, the conversion of parking spaces on Level 7 to motor-vehicle showroom use would cause the provision of commercial parking spaces to be grossly inadequate;
- (v) although the applicant argued that a provision standard of 1 car parking space per 9 residential units and 1 parking space per 300 m² commercial GFA should be adequate to cater for the parking demand of Discovery Park, C for T disagreed and considered that the provision standard of 1 car parking space per 8 residential units and 1 parking space per 200 m² commercial GFA should be adopted, taking into account the development density and traffic conditions in the vicinity, the location of the site and its proximity to and convenience of access to major transport corridors or pedestrian links, the availability of public car parking spaces in the vicinity and the level of illegal parking in the vicinity. In this regard, the total parking requirement based on C for T's assessment would be 920 spaces rather than 769 spaces as suggested by the applicant;

- (vi) as the applicant had underestimated the parking space requirement under the HKPSG, even though the application for the showroom use had been approved thrice by the Board in 2004, 2006 and 2009, the current renewal application should not be approved as there were changes in planning circumstances since the last approval granted in 2009;
- (vii) the applicant had conducted a Parking Demand Study which showed that the actual commercial parking space utilization could be as high as 421 spaces (or 452 spaces if the day parking were classified as commercial parking). The applicant conducted a further survey in September 2012 and claimed that the actual maximum utilization for the commercial car park was 361 spaces. These demand assessments did not support the applicant's arguments for adopting the lower end of the HKPSG standards to calculate the parking requirements for the commercial part of the development (i.e. 159 spaces). In this regard, there was insufficient information in the submission to demonstrate that with the proposed conversion of 156 commercial parking spaces for motor-vehicle showroom use, sufficient commercial car parking spaces would be provided to meet the requirement under the HKPSG to serve the commercial portion of the existing development on the application site; and
- (viii) the applicant had failed to demonstrate that it had met the prerequisite that any conversion of car parking spaces would not affect the supply of car parking facilities for the subject development. In this regard, the Premises might not be a suitable location for motor-vehicle showroom use.

[Mr. C.W. Tse and Ms. Janice W.M. Lai returned to join the meeting at this point.]

111. The Chairman then invited the applicant's representatives to elaborate on the application. With the aid of a Powerpoint presentation, Mr. Kenneth To made the

following main points:

- (a) “motor-vehicle showroom” was subsumed under ‘Shop and Services’ under the ‘Definition of Terms used in Statutory Plans’ adopted by the Board. The term ‘Shop and Service’ was general and covered different types of services and shops including motor-vehicle showrooms for new cars and second-hand cars;
- (b) motor-vehicle showrooms for new cars and second-hand cars had very different operational requirements and characteristics. While a showroom for new cars needed a relatively small area as only a few models would be displayed for customers to choose from, a showroom for second-hand cars needed a very large space as all the second hand cars on sale would need to be displayed at the showroom for potential clients to choose from. A critical mass of at least 100 vehicles under display showing various brands and models at different price levels was required for a showroom for second-hand vehicles to be viable. Moreover, a showroom for new cars would attract more visitors than a showroom for second-hand cars;
- (c) a purpose-built showroom for second-hand cars could not be found in Hong Kong and all the existing showrooms for second-hand cars were located in car parks with a large amount of surplus car parking spaces. Only two showrooms were known to have fulfilled all legal requirements, i.e. the showrooms at the basement of the Hong Kong Convention and Exhibition Centre and at the basement of the Hong Kong International Trade and Exhibition Centre. They provided a total of 1,345 spaces for the display of second-hand vehicles. It was difficult and costly to find a suitable venue that fulfilled all legal requirements to serve as a long term showroom for second-hand cars;
- (d) other business channels such as the media or the internet was not suitable for the trading of second-hand cars as this type of business needed

face-to-face transactions where customers could examine and test the second-hand cars on sale. A motor-vehicle showroom for second-hand cars was the most efficient and effective platform for both buyers and sellers of used vehicles to do business;

[Dr. C.P. Lau returned to join the meeting at this point.]

- (e) according to the parking surveys conducted by the applicant's consultants during the period from March 2011 to February 2012, the day-time utilization rate of car parking spaces each month ranged from 503 to 570 vehicles during weekdays and 703 to 795 vehicles during weekends and public holidays (with 361 vehicles on monthly tickets both for weekdays and weekends). The night-time utilization rate ranged from 539 to 581 vehicles during weekdays and 681 to 758 vehicles during weekends and public holidays (also with 361 vehicles on monthly tickets). In October, November and December of 2012, the total car park utilization rate was 468 to 646 vehicles, 468 to 782 vehicles and 478 to 738 vehicles respectively (also with 361 vehicles on monthly tickets). In this regard, there was a surplus provision of about 200 car parking spaces and the proposed conversion of 156 spaces for the temporary motor-vehicle showroom would not result in a shortage of car parking spaces to meet the demand;

[Ms. Christina M. Lee returned to join the meeting at this point.]

- (f) the parking fee of \$2,800 per month had remained unchanged since 1999 and was not excessively high when compared with the parking fees of other car parks in the vicinity, some of which were charging \$2,500 to \$2,600 per month. It was noted that the variation in monthly parking fees were due to differences in location, building age of the car park, the size of the parking space, owners' operation costs, etc;
- (g) the parking standards given in the HKPSG were set out in a range in order

that the specific circumstances and needs of individual sites could be taken into account. For the subject site, although it was located outside the 500m-radius of the rail station, the traffic consultants considered it appropriate to adopt the accessibility adjustment ratio of 0.85 (i.e. a 15% discount) to calculate the parking requirements as there was an elevated pedestrian walkway directly linking Discovery Park with the MTR Tsuen Wan station. Moreover, as the 1,200 flats at Discovery Park that were within the 70m² to 99m² range set out in the HKPSG were small size flats at the lower end of the range (about 73.6m² to 76.5m²), the provision standard of 1 car parking space per 9 residential units should be adopted;

- (h) the vacancy rate of the car parking spaces at Levels 6 and 7 of Discovery Park continued to be at a high level even after the temporary motor-vehicle showroom had ceased operation; and
- (i) the claim made by the local residents that visitors to the showroom had caused over-congestion to the lifts was not substantiated. According to a survey conducted by the applicant's consultants, the number of visitors generated by the motor-vehicle showroom was only about 50 people per hour during the peak, which was not much different from that generated by a normal car park of similar size.

[Professor Edwin H.W. Chan arrived to join the meeting at this point.]

112. Mr. Peter Lam made the following main points:

- (a) he was a representative for Automall, the operator of the second-hand vehicle showroom. As the showroom had been closed after the planning application was rejected by the MPC, the livelihood of hundreds of people had been seriously affected;
- (b) the Board should not be misled by the Government departments and some of the public commenters who held biased views and provided

information that did not reflect the truth;

- (c) the technical advice provided by TD was questionable as TD was trying to shirk its responsibilities on traffic management. TD's claim that the illegal parking problem at Mei Wan Street had deteriorated was not substantiated by reliable statistics. Besides, the reasons for the alleged increase in illegal parking could be numerous. There was no empirical evidence to support TD's allegation that the illegal parking problem at Mei Wan Street was due to a lack of parking spaces at Discovery Park. Moreover, the illegal parking problem should be properly addressed by strengthening enforcement by concerned departments rather than by providing more car parking spaces at the subject development;
- (d) the statement made in the TPB Paper that only one Member of the Tsuen Wan District Council supported the application was also misleading as, for example, no information was provided on whether the other Members of the District Council supported that Member;
- (e) there was no empirical and scientific evidence to demonstrate that there was a change in the planning circumstances since 2004 when planning permission was first granted for the temporary motor-vehicle showroom;
- (f) TD's requirement to adopt the higher provision standard of 1 car parking space per 8 residential units and 1 parking space per 200m² commercial GFA was not backed by any studies or survey results on the demand for car parking spaces at the site;
- (g) since the closure of the showroom, the car park only served a few cars everyday with most of the car parking spaces left idle, particularly the 7/F; and
- (h) he hoped that the Board could give a fair consideration to the application which affected the livelihood of many people.

[Mr. Sunny L.K. Ho left the meeting at this point.]

113. Mr. Au Yeung Tin Lok made the following main points:

- (a) the showroom was the only legal showroom in Tsuen Wan District and it served mainly middle class families in the area;
- (b) the operator was law-abiding and the showroom was closed in September 2012 after the application for renewal of planning permission was rejected by the MPC; and
- (c) as no other showroom that could meet all legal requirements was available in the area, both buyers and sellers of used cars would suffer from the loss of an effective and reputable trading platform for used cars. They hoped that the showroom could be re-opened as soon as possible.

[Professor Eddie C.M. Hui left the meeting at this point.]

114. In response to the Chairman's enquiry, Mr. Kenneth To said that the showroom for second-hand cars had ceased operation after the application was rejected by the MPC in August 2012. Regarding information on the change in the usage rate of the car park before and after the closure of the showroom, Mr. To referred Members to the graphs provided in his Powerpoint which indicated that there was not much change in demand before and after the closure of the showroom. The peak demand from March 2011 to February 2012 was 795 spaces while the peak demand from October 2012 to December 2012 was 782 spaces. Mr. Wilson Chan, however, pointed out that even though the showroom had ceased operation, the car park at Level 7 of Discovery Park had remained closed to the public as the second hand cars previously parked in the temporary showroom had not been removed. Moreover, according to the applicant's peak demand figures, the current provision of 328 car parking spaces to serve the commercial floor space was inadequate to meet the demand and the car park operator had been using some of the 672 car parking spaces originally reserved for residential car parking to serve the commercial parking demand. Mr. Chan

added that the conversion of 156 car parking spaces into the temporary showroom would further reduce the number of non-domestic car parking spaces available to serve the commercial parking demand.

115. In response to the Chairman's enquiry on any change in the illegal parking situation after the showroom ceased operation, Mr. Y.W. Cheung said that they had received several complaints about illegal parking along Mei Wan Street in the last few years and TD was liaising with the car park operator of Discovery Park on possible measures to improve the situation, including further extending the "No Stopping" bay area at Mei Wan Street. There was still illegal parking at Mei Wan Street after the showroom ceased operation. Mr. Peter Lam, however, pointed out that the illegal parking problem had persisted even though there were plenty of vacant parking spaces at Level 6 of Discovery Park. He said that it was unfair to link the illegal parking problem with the provision of car parking spaces at Discovery Park which was not supported by any statistics or studies. He also stressed that the illegal parking problem should be tackled by strengthening enforcement by concerned departments.

116. In response to the Chairman's enquiry on the change in planning circumstances, Mr. Wilson Chan clarified that the change in planning circumstances mentioned in the TPB Paper was mainly referring to the current traffic situation as compared with the situation in 2009 (i.e. the date of the last approval) rather than the situation in 2004 (i.e. the date of the first approval). Mr. Y.W. Cheung added that the change in planning circumstances included the worsening of the illegal parking problem at Mei Wan Street, an overall increase in traffic flow in the general area, and a reduction in the number of parking spaces available in Tsuen Wan, particularly upon the closure of the Government operated car park at the Tsuen Wan Transport Complex. The Tsuen Wan Transport Complex currently provided about 700 car parking spaces with an average occupancy rate of about 30%. Mr. Cheung, however, considered it difficult to quantify the change in planning circumstances, particularly on the illegal parking problem at Mei Wan Street.

117. Making reference to the site photos in Plan R-5 of the Paper showing the illegal parking situation at Mei Wan Street, the Chairman noted that the cars were probably parked there waiting for a short time only as the drivers had not left their cars. It was likely that

these drivers would not park their cars inside the car park at Discovery Park for the purpose of waiting for their passengers even if the car park was not full. He enquired whether TD had any statistics on the number of cars that were illegally parked vis-à-vis those waiting with drivers inside the car. In response, Mr. Y.W. Cheung said that he did not have such information in hand.

118. A Member enquired about the meaning of the term 'peak demand'. In response, Mr. Kelvin Leung said that the peak demand for each month meant the highest number of vehicles parked inside the car park on any day during the month.

119. Making reference to the estimated surplus of 4,900 car parking spaces in Tsuen Wan mentioned in the Second Parking Demand Study, the Vice-Chairman said that this information contradicted with TD's claim that there was a shortage of car parking spaces in the area. In response, Mr. Y.W. Cheung said that the Second Parking Demand Study was conducted in 2001-2002 and it was estimated at that time that there would be a surplus of 4,900 car parking spaces in Tsuen Wan for the year 2006-2011. However, that figure had not been updated since then. Based on the latest car park usage rates in the vicinity, TD considered that there was a shortage of car parking spaces in the area. Upon the further enquiry of the Vice-Chairman, Mr. Cheung said that they had recently examined the number of car parking spaces that would be available in the area to absorb the vehicles that would be displaced by the closure of the Government car park at Tsuen Wan Transport Complex. It was found that other than a newly opened temporary car park providing about 150 spaces, there were not many spaces available from the other existing car parks. In this regard, the overall parking provision in the district had worsened when compared with a similar study conducted in 2010. In response to a further enquiry from the Chairman, Mr. Cheung said that there were adequate vacant car parking spaces in the area to absorb the number of vehicles that would be displaced from the Tsuen Wan Transport Complex as its occupancy rate was not high.

120. The Vice-Chairman enquired whether the Discovery Park Estate Owners' Committee was the same as the Owners' Corporation and its status in representing the individual flat owners in Discovery Park. In response, Mr. Wilson Chan said that he had no information in hand on whether the status of the Estate Owners' Committee was

equivalent to the Owners' Corporation. However, he noted that many residents supported the proposal of the Estate Owners' Committee to submit individual letters to the Board raising objection to the application.

121. A Member enquired whether the applicant had purposely set a higher monthly parking fee to deter residents from renting the residential car parking spaces. In response, Mr. Kenneth To clarified that the applicant was not the owner of the car park. Nevertheless, according to information provided by the owner, they had never refused any residents who wanted to rent a car park on a monthly basis. Mr. To considered that if there were competition for parking spaces between the residents and the temporary showroom, the owner should have rented the car parking spaces to the residents rather than to the operator of the showroom.

122. In response to a Member's enquiry, Mr. Y.W. Cheung considered that TD would not raise objection to the application if the temporary showroom was reduced in size to take up not more than 80 car parking spaces and provided that the 672 residential car parking spaces would not be used to serve the commercial parking demand. However, the operator would need to demonstrate that, upon converting 80 non-domestic car parking spaces for the temporary motor-vehicle showroom, the remaining 248 non-domestic car parking spaces were sufficient to serve the commercial parking demand. Mr. Kenneth To, however, considered that the proposal was not acceptable as it would mean that half of the sub-tenants of the showroom would need to close their business. Besides, as a showroom for second-hand cars needed a certain critical mass to attract its customers, the reduction in the scale of the showroom would likely affect the viability of the showroom.

123. A Member enquired whether there was any information on the number of cars that would use the car park at Discovery Park upon the closure of the Tsuen Wan Transport Complex as the two were a distance apart. In response, Mr. Y.W. Cheung said that he did not have such information.

124. Mr. Peter Lam reiterated that as only about 360 residential car parking spaces were rented on a monthly basis, and the remaining residential car parking spaces were left idle, it would be a waste of valuable resources not to make better use of the vacant car

parking spaces. There was also no information on the number of car owners residing in Discovery Park.

125. As the applicant's representatives had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and the Government representatives for attending the meeting. They left the meeting at this point.

Deliberation Session

126. A Member who was familiar with the subject car park noted that vacant spaces for hourly car park users were available almost at all times of the day throughout the week, although the lift serving the car park was a problem as it required a long waiting time. On this point, the Chairman noted that although the lift services might be inadequate, the existence of the showroom was unlikely to be a major cause of the problem in view of the fact that the number of visitors at any one time generated by a showroom for second-hand vehicles was in general quite low.

Monthly Parking Fees

127. A Member considered that it would be more profitable for the car park owner to lease the car park to the showroom operator rather than to individual residents. In this regard, the residents' claim that the car park owner had charged an exorbitant monthly parking fee in order to discourage residents from parking their cars at the site was not without basis.

128. The Vice-Chairman, however, considered that the monthly car parking fee set by the owner was a market decision and it was not a matter for the Board to consider. It was also noted that the parking fee had remained unchanged since 1999.

Illegal Parking along Mei Wan Street

129. On the issue of illegal parking at Mei Wan Street, the Chairman said that the cars shown in the site photos in Plan R-5 of the Paper seemed to be waiting there for a short while to pick up or load/unload rather than being parked on the street without the driver. These drivers had no intention to park their cars inside the car park and hence the availability of parking spaces within Discovery Park would unlikely resolve the illegal parking problem. Besides, TD had no quantitative information to support its claim that the illegal parking problem was serious or had worsened. This view was echoed by a Member who noted that there seemed to be no causal relationship between the kind of illegal parking at Mei Wan Street and the number of car parking spaces available in Discovery Park.

130. A Member noted that a Police Station was located at the end of Mei Wan Street. In this regard, this Member considered that drivers would be more cautious in parking their cars such that the illegal parking problem along the street did not appear to be serious. Another Member enquired whether the Commissioner of Police had commented on the illegal parking problem at Mei Wan Street. In response, the Secretary informed Members that the Commissioner of Police had no comments on the application.

Change in Planning Circumstances

131. A Member doubted whether there was a change in planning circumstances as TD failed to provide any quantitative information on the overall traffic flow in the area to substantiate the claim. This view was echoed by another Member who noted that TD ultimately indicated that the closure of the Government car park at Tsuen Wan Transport Complex would not affect the demand for car parking spaces at Discovery Park. As the illegal parking problem at Mei Wan Street was also not substantiated, the Member did not consider that there was any significant change in planning circumstances.

132. A Member considered that the change in the overall parking provision in the area would unlikely affect the demand for commercial parking spaces at Discovery Park, as drivers using the commercial car parking spaces were mostly customers of the shopping centre at Discovery Park.

133. The Vice-Chairman considered that the illegal parking problem at Mei Wan Street and the overall parking provision in Tsuen Wan were not directly related to the subject application, particularly when TD's representative had confirmed that there was still an adequate supply of parking spaces in the area even with the closure of the Tsuen Wan Transport Complex. In this regard, there was insufficient planning justification not to approve the application, given that planning approval had been granted thrice before.

134. In response to the Chairman's question, the Secretary explained that the issue of whether there was a change in planning circumstances was discussed in detail at the MPC. The representative of TD confirmed at the MPC that there was a change in the planning circumstances in the general area including the worsening illegal parking problem, the reduction in the provision of car parking spaces, the increase in traffic flow in the area and the increase in development density in the area. Nevertheless, upon consideration of the presentation of the applicant's representatives on the details of the car parking condition in the application site, the Board would need to consider whether the change in planning circumstances was relevant to the site under concern, and whether it was appropriate to allow a better use of idle car parking spaces that were not needed to serve the residents and the shopping centre. In addition, the temporary showroom was not incompatible with the retail uses of the development.

135. A Member considered that since the commercial car parking spaces were not specified in the lease as public parking spaces but were intended to serve the development, it might not be appropriate for the Board to take into account the overall provision of car parking spaces in the general area.

Use of Residential Car Parking Spaces to Meet Commercial Parking Demand

136. A Member noted that as a minimum of 672 residential car parking spaces was specified as a requirement under the waiver, approving the application would encourage the car park operator to breach the waiver requirements as some residential car parking spaces would continue to be used for commercial parking purposes. This Member considered that sympathetic consideration should not be given to the application. Besides, compared with the information provided at the section 16 stage, no new information was submitted to the

Board to merit a change in its decision on the application.

137. A Member was concerned whether it was appropriate for the Board to allow the car park operator to continue to make use of the vacant residential car parking spaces to serve the commercial parking demand while part of the commercial parking spaces had been converted for use as a temporary motor-vehicle showroom.

138. A Member, however, noted that it would be wrong to assume that those car parking spaces that were rented on a monthly basis were serving the residents while those that were rented on an hourly basis were serving the shopping centre. Residents could also park their cars on an hourly basis and cars on monthly tickets could come from other developments in the surrounding. At the request of the Chairman, the Secretary explained that car parking spaces, be they residential or commercial, required under the HKPSG to serve the development were normally exempted from GFA calculations. In this regard, the residential car parking spaces should serve the residents while the commercial car parking spaces should serve the shopping centre.

139. Noting that the applicant would need to pay waiver fees for the temporary waiver of the lease conditions and that the proposed temporary motor-vehicle showroom and the temporary minor relaxation of the non-domestic GFA restriction for the showroom use were justified, the Vice-Chairman considered that the application could be supported.

Conclusion

140. The Chairman concluded the discussion and noted that Members generally considered that the illegal parking problem at Mei Wan Street was not a relevant consideration for the subject application. Members also noted that the applicant was law-abiding as the temporary showroom had ceased operation after the planning application was rejected. Besides, the applicant had provided sufficient justification with facts and figures on the current car parking conditions in Discovery Park to support the proposed motor-vehicle showroom use at the site. Members agreed that the application should be approved.

141. After further deliberation, the Board decided to approve the application on a temporary basis for a period of 3 years until 18.1.2016 on the terms of the application as submitted to the Town Planning Board and subject to the following conditions:

- (a) the provision of water supplies for firefighting and fire service installations within **6** months from the date of commencement of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.7.2013; and
- (b) if the above planning condition was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

142. The Board also agreed to advise the applicant of the following:

- (a) to note the comments of District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department that a fresh temporary waiver at the Premises for the applied use should be submitted by the applicant;
- (b) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority;
- (c) to note that the approved gross floor area (GFA) (4,333 m²) for the proposed temporary motor-vehicle showroom covered all the GFA accountable areas under the Buildings Ordinance and its regulations for the proposed use; and
- (d) to liaise with the residents of Discovery Park to address their concerns on management and security aspects.

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TT/307

Proposed House (New Territories Exempted House - Small House) in “Agriculture” zone, Lot 2316 S.A in D.D. 116, Tai Tong, Yuen Long, New Territories

(TPB Paper No. 9264)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Mr. W.S. Lau	District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), PlanD
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Mr. Henry Tai) Applicant’s representatives
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Ms. Joyce Yeung)
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144. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TMYL to brief Members on the background of the application.

145. With the aid of a Powerpoint presentation, Mr. W.S. Lau made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for a proposed house (New Territories Exempted House (NTEH) - Small House) at the application site which was zoned “Agriculture” (“AGR”) on the Tai Tong Outline Zoning Plan (OZP);

- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 21.9.2012 and the reasons were:
- (i) the proposed development was not in line with the planning intention of the “AGR” zone on the OZP, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification given in the submission for a departure from the planning intention; and
 - (ii) the application did not comply with the Interim Criteria for assessing planning applications for NTEH/Small House development in that the site and the footprints of the proposed Small Houses fell wholly outside both the ‘village environs’ (‘VE’) of recognized village and the “Village Type Development” (“V”) zone. Besides, there was land available within the “V” zone of Kong Tau Tsuen, Kong Tau San Tsuen, Nga Yiu Tau and Tong Tau Po Tsuen to meet the demand forecast for Small House development. The applicant failed to demonstrate in the submission why suitable site within areas zoned “V” could not be made available for the proposed development;
- (c) the further justifications in support of the review submitted by the applicant were set out in paragraph 3 of the Paper and summarized as follows:
- (i) the applicant did not own any land within the “V” zone. Besides, there were many residential houses, huts and NTEHs/Small Houses in the vicinity of the site and the subject application for Small House development was not the first;

- (ii) the proposed NTEH/Small House was situated on higher ground, thus flooding was not anticipated. Besides, there was no record of flooding around the site. Stormwater drainage system and soil water drainage treatment would be proposed and carried out in accordance with Drainage Services Department's (DSD) instructions and regulations to prevent pollution. DSD had no objection to the application on this aspect at the s.16 stage; and
- (iii) to beautify the environment, all withered plants would be removed to avoid harmful diseases;
- (d) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) did not support the application as the proposed house fell outside the 'VE' of any recognized village and outside the "V" zone. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from the agricultural point of view as the site and its surrounding area were abandoned agricultural land with high potential for agricultural rehabilitation. Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) considered that the drainage proposal submitted at the s.16 stage was not acceptable as the proposal had not demonstrated that the proposed development would not cause adverse drainage impact to the adjacent areas. The applicant had not submitted any further information to address DSD's comments on the proposed drainage layout plan;
- (e) public comments – a total of 15 public comments were received from local residents objecting to the application on the grounds that the proposed development was not in line with the planning intention, it was not compatible with the surrounding land use, it would cause potential drainage, sewerage and environmental impacts, and there were other more suitable locations in the vicinity for the proposed development. At the

s.16 stage, 7 public comments were received objecting to the application on the grounds that the proposed development was subject to environmental, visual/landscape, drainage, sewerage and traffic impacts, it was not in line with the planning intention of the “AGR” zone, and there were other more suitable locations for the proposed development; and

(f) PlanD’s views – PlanD did not support the application based on the assessment as stated in paragraph 7 of the Paper, which were summarized below:

(i) the proposed development was not in line with the planning intention of the “AGR” zone. Although the applicant argued that there were many residential developments, including houses, huts and NTEHs/Small Houses in the vicinity of the site, no approval for NTEH/Small House applications had been granted in the subject “AGR” zone since the draft Tai Tong OZP No. S/YL-TT/1 was gazetted in 1994;

(ii) although the RNTPC had approved 4 applications for NTEH/Small Houses in 1992 (No. A/DPA/YL-TT/12, A/DPA/YL-TT/14, A/DPA/YL-TT/15 and A/DPA/YL-TT/27), these applications were approved when the sites fell within an area designated as “Unspecified Use” on the then draft Tai Tong Development Permission Area (DPA) Plan No. DPA/YL-TT/1. These applications were approved mainly on the consideration that the proposed developments were relatively small in scale and were not incompatible with the planning intention of the “Unspecified Use”, and some of the proposed developments had Building Licences and/or involved resite of the applicants’ original house lots which were affected by the construction of the Yuen Long Southern Bypass and needed to be resumed. Since 1994 when the area was rezoned to “AGR”, no similar application had been approved;

- (iii) DAFC did not support the application from the agricultural point of view as the site and its surrounding area had high potential for agricultural rehabilitation. There was no strong planning justification given in the submission for a departure from the planning intention;
- (iv) notwithstanding the applicant's claim that he did not own any land within the "V" zone, from the town planning point of view, ownership of land was not a material consideration in the assessment of Small House application;
- (v) the application did not comply with the Interim Criteria as the footprint of the proposed Small House fell outside the "V" zone and the 'VE'. Besides, there was a surplus of land for Small House development in the nearest "V" zone to the west of the site covering Kong Tau Tsuen (including Kong Tau San Tsuen), Nga Yiu Tau and Tong Tau Po Tsuen. While the current Small House demand (outstanding Small House applications plus 10-year Small House demand forecast) for the three villages were 134 Small Houses, 99 Small Houses and 35 Small Houses respectively (equivalent to about 6.7 ha of land for 268 Small Houses), there was still about 21.42 ha of land (equivalent to about 857 Small House sites) available within the nearest "V" zone to the west of the site, which covered 4 villages, namely Kong Tau Tsuen (including Kong Tau San Tsuen), Nga Yiu Tau and Tong Tau Po Tsuen. Given DLO/YL, LandsD's advice that cross-village Small House application would be considered, the applicant had failed to demonstrate in the submission why suitable sites in areas zoned "V" could not be made available for the proposed development;
- (vi) the drainage proposal submitted at the s.16 stage was not

accepted by CE/MN, DSD as the proposal had not demonstrated that the proposed development would not cause adverse drainage impact to the adjacent areas. However, the applicant had not submitted any further information to address DSD's comments on the proposed drainage layout plan; and

- (vii) the landscape proposal submitted by the applicant at s.16 stage was not accepted by CTP/UD&L, PlanD but no further information was submitted to address CTP/UD&L, PlanD's concerns.

146. The Chairman then invited the applicant's representatives to elaborate on the application.

147. Mr. Henry Tai made the following main points:

- (a) the Director of Drainage Services had no comment on the drainage proposal;
- (b) the proposal was in line with Government's current policy to make use of land in the rural areas for housing development;
- (c) the applicant was already over 70 years old and wanted to build a Small House on the only piece of land that he owned;
- (d) there were many existing houses in the vicinity of the application site. Approving the application would be a win-win situation for all parties concerned; and
- (e) as there were no agricultural activities in the surrounding area, it was unlikely that the site would be rehabilitated for agricultural use.

148. The Chairman enquired whether any land was available in the "V" zone for

Small House development. In response, Mr. W.S. Lau said that there were about 21 ha of land within the “V” that was available for Small House development. Making reference to Plan R-1a, Mr. Lau pointed out that there was a large piece of land zoned “V” at Kong Tau Tsuen, Kong Tau San Tsuen and Nga Yiu Tau. The applicant’s argument in support of his application for a Small House was that he owned the subject site which was zoned “AGR” and did not have money to buy land within the “V” zone,

[Mr. Ivan C.S. Fu returned to join the meeting at this point.]

149. Making reference to Plans R-2 and R-3, Mr. K. K. Ling enquired about the nature of the existing buildings found in the vicinity. In response, Mr. W.S. Lau said that those developments were Small Houses that had been approved by the Board in 1992, when the area was designated as “Unspecified Use” on the DPA Plan. They were all domestic structures.

150. As the applicant’s representatives had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board’s decision in due course. The Chairman thanked the applicant’s representatives and PlanD’s representative for attending the meeting. They left the meeting at this point.

Deliberation Session

151. The Chairman noted and Members generally agreed that the proposed Small House development was outside both the “V” zone and the ‘VE’ and was not in line with the ‘Interim Criteria for Consideration of Application for NTEH/Small House Development in New Territories’. Members also noted that the proposal was not in line with the planning intention of the “AGR” zone.

152. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the proposed development was not in line with the planning intention of the “AGR” zone on the OZP, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification given in the submission for a departure from the planning intention; and
- (b) the application did not comply with the Interim Criteria for assessing planning applications for NTEH/Small House development in that the site and the footprints of the proposed Small Houses fell wholly outside both the ‘VE’ of recognized village and the “V” zone. Besides, there was land available within the “V” zone of Kong Tau Tsuen, Kong Tau San Tsuen, Nga Yiu Tau and Tong Tau Po Tsuen to meet the demand forecast for Small House development. The applicant failed to demonstrate in the submission why suitable site within areas zoned “V” could not be made available for the proposed development.

[Ms. Bonnie J.Y. Chan left the meeting at this point.]

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TYST/598

Temporary Recyclable Collection Centre for a Period of 3 Years in “Residential (Group D)” zone, Lots 1497 (Part), 1498 RP (Part), 1499 (Part) and 1512 RP (Part) in D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories

(TPB Paper No. 9265)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

153. The following representative of Planning Department (PlanD) was invited to the meeting at this point.

Mr. W.S. Lau District Planning Officer/Tuen Mun and Yuen Long
(DPO/TMYL), PlanD

154. The Chairman extended a welcome and explained the procedures of the review hearing. As the applicant had decided not to attend the hearing, the Chairman indicated that the Board would proceed with the review hearing in the absence of the applicant. He then invited DPO/TMYL to brief Members on the background of the application.

155. With the aid of a Powerpoint presentation, Mr. W.S. Lau made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to use the application site (the site) as a temporary recyclable collection centre for a period of 3 years. The site was zoned “Residential (Group D)” (“R(D)”) on the Tong Yan San Tsuen Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 20.7.2012 and the reasons were:
 - (i) the development was not in line with the planning intention of the “R(D)” zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;

- (ii) the application did not comply with the TPB PG-No. 13E in that no previous planning approval had been granted for the use on the site, the submission could not demonstrate that the development would not generate adverse environmental impact on the surrounding areas, and there were adverse departmental comments on the application. The development was also not compatible with the residential uses in the surrounding areas; and
 - (iii) as no approval for similar uses had been granted in the subject “R(D)” zone since 2002, approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area;
- (c) the further justifications in support of the review submitted by the applicant were set out in paragraph 3 of the Paper and summarized as follows:
- (i) although the site fell within Category 3 area under TPB PG-No. 13E, all Government departments had no objection to the application, except Environmental Protection Department (EPD);
 - (ii) the proposed use was a temporary community-based recyclable collection centre. The use/function of a recyclable collection centre was clearly set out in the Board’s ‘Definition of Terms (DoTs) Used in Statutory Plans’ and it was unjustified and ultra vires for PlanD to claim that, based on the proposed layout plan submitted by the applicant, the proposal was “akin to an open storage yard with open-sided or semi-enclosed structure(s) and was of no difference from a typical open storage yard for recycling materials”;
 - (iii) the applicant preferred to operate a temporary recyclable collection

centre at the site because the site was not suitable for low-rise and low-density residential developments at the moment due to the storage yards and workshops in the vicinity of the site. The site adjoined a warehouse to the immediate south;

- (iv) the proposed development involved only collection, storage, sorting, packing and baling of recyclable materials for recycling purposes. No cutting, dismantling, cleansing, repairing and compaction activities would be carried out at the site and there would be no handling (including loading/unloading and storage) of electrical/electronic appliances/components, including cathode-ray tubes (CRT), CRT computer monitors/television sets and CRT equipments. Besides, the operation hours would be limited. As such, there was no significant environmental impact to the surrounding area;
- (v) the applicant proposed not to use vehicles exceeding 5.5 tonnes for the transportation of recyclable material so as to enhance the compatibility of the proposed development with the surrounding environment and to address the concerns of EPD;
- (vi) the proposed development met the Government's initiative to recycle waste and to alleviate pressure of the landfills. It could serve as a part of the community recycling network and could become a collection point for recyclables of low commercial value such as waste plastics and glass bottles; and
- (vii) the similar applications for temporary open storage uses within the same "R(D)" zone were irrelevant to the current review application because the proposed development was not an open storage use but a proposed recyclable collection centre. As such, the approval of the proposed development would not set a bad precedent;

- (d) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. DEP commented that the loading and unloading activities might generate environmental nuisance to sensitive receivers in the vicinity and the proposed use was considered environmentally undesirable;
- (e) public comments – no public comment was received during the statutory publication period; and
- (f) PlanD's views – PlanD did not support the application based on the assessment as stated in paragraph 7 of the Paper, which were summarized below:
 - (i) according to TPB PG-No.13E, 'open storage' uses referred to activities carried out on a site for which the greater part of the site (generally assumed to be more than 50%) was uncovered, or covered with temporary structures which did not radically differ from the appearance, nature or impact of operations carried out in open accommodation, and used for storage purpose. Despite the applicant's claim that all the recycling activities would be held within the open shed and there were no open storage activities at the site, it was observed that majority of the uncovered areas of the site was used for storage of recyclable materials. Although the use applied for was temporary community-based recyclable collection centre, the appearance and nature of the development was akin to an open storage yard with open-sided or semi-enclosed structures and was of no difference from a typical open storage yard for recyclable materials. In this regard, TPB PG-13E was relevant to the application;
 - (ii) the proposed development was not in line with the planning intention of the "R(D)" zone and was incompatible with the residential structures in the surrounding areas, in particular those

to its immediate east and west. Although there were storage yards and workshops in the vicinity of the site, they were mostly suspected unauthorized developments subject to enforcement action taken by the Planning Authority. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;

- (iii) DEP considered the proposed use to be environmentally undesirable as the loading and unloading activities pertinent to the proposal might generate environmental nuisance to sensitive receivers in the vicinity, with the nearest being at its immediate east and west. Moreover, while the applicant claimed the use to be a community-based operation, no further information was submitted to demonstrate the mode of operation of the development, i.e. how the recyclable materials were to be collected from the neighbourhood and how it served as part of the community recycling network. The applicant also failed to explain why there was a need to set up a recyclable collection centre at this location or proved that there was demand for such facilities in the local community;
- (iv) the development was not in line with the TPB PG-No. 13E in that there was no previous approval granted for the use at the site and there were adverse comments from DEP. Although 10 similar applications for temporary open storage uses in the same “R(D)” zone had been approved, they were all approved before the promulgation of TPB PG-No. 13D, which specified that sites that fell within Category 3 areas without previous planning approvals would normally not be favourably considered. No further similar application had been approved within the same “R(D)” zone since then; and
- (v) the approval of the application, even on a temporary basis, would

set an undesirable precedent for similar applications to proliferate into the “R(D)” zone, causing degradation to the surrounding environment.

156. As Members had no question to raise, the Chairman said that the hearing procedures for the review had been completed and the Board would deliberate on the application and inform the applicant of the Board’s decision in due course. The Chairman thanked DPO/TMYL for attending the meeting. He left the meeting at this point.

Deliberation Session

157. The Chairman noted and Members generally agreed that the proposed development was not in line with the planning intention of the “R(D)” zone and that no strong planning justifications had been given to justify a departure from the planning intention. Members also noted that the application did not comply with TPB-PG No. 13E and that DEP had adverse comments on the application.

158. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the development was not in line with the planning intention of the “R(D)” zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (b) the application did not comply with the TPB PG-No. 13E in that no previous planning approval had been granted for the use on the site, the submission could not demonstrate that the development would not

generate adverse environmental impact on the surrounding areas, and there were adverse departmental comments on the application. The development was also not compatible with the residential uses in the surrounding areas; and

- (c) as no approval for similar uses had been granted in the subject “R(D)” zone since 2002, approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

Agenda Item 9

[Open Meeting]

Request for Deferral for Review of Application No. A/TP/461

Columbarium in “Government, Institution or Community” zone, Lot 1006 R.P. in D.D. 5, No. 2 Mui Shu Hang Village, Tai Po, New Territories

(TPB Paper No. 9267)

[The meeting was conducted in Cantonese.]

159. The following Members had declared interests on this item:

- | | | |
|-----------------------|---|--|
| Mr. Stanley Y.F. Wong | - | co-owned a flat and 2 car parks in Tai Po with spouse. |
| Dr. W.K. Yau | - | owned several properties in Tai Po. |

160. As the item was for the deferral of the consideration of the application and no deliberation was required, Members agreed that the above Members could stay at the meeting. Members noted that Dr. W.K. Yau had already left the meeting.

161. The Secretary reported that on 14.9.2012, upon the request of the applicant, the

Board had deferred making a decision on the review application for two months in order to allow time for the finalization of the Updated Traffic Impact Assessment Report (UTIAR).

162. On 21.12.2012, the applicant wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application for another two months as the applicant was still waiting for Transport Department's comments on the UTIAR and the relevant Government department's clarifications on the management responsibility of the emergency vehicular access leading to the site. This was the second deferral request submitted by the applicant.

163. Members noted that the justifications for deferment met the criteria set out in the Town Planning Board Guidelines No. 33 in that the applicant needed more time to prepare documentation for the review, the deferment period was not indefinite, and that the deferment would not affect the interests of other relevant parties.

164. After deliberation, the Board agreed to defer consideration of the application as requested by the applicant and the application should be submitted to the Board for consideration within three months upon receipt of further submission from the applicant. The Board also agreed to advise the applicant that the Board had allowed a further period of two months for preparation of the submission of further information and that a total of four months had already been allowed. No further deferment would be granted unless under very special circumstances.

Agenda Item 10

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Sai Kung Town Outline Zoning Plan No. S/SK-SKT/5

(TPB Paper No. 9269)

[The meeting was conducted in Cantonese.]

165. The following Member had declared interests on this item:

Ms. Janice W.M. Lai - spouse owned a shop in Sai Kung.

166. As the item was procedural in nature and deliberation was not required, Members agreed that Ms. Lai could stay at the meeting.

167. The Secretary briefly introduced the Paper. On 24.8.2012, the draft Sai Kung Town Outline Zoning Plan (OZP) No. S/SK-SKT/5 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). The proposed amendments were mainly related to the rezoning of two “Government, Institution or Community” sites for residential use. During the 2-month exhibition period, three representations were received. On 2.11.2012, the representations were published for public comments and, in the first three weeks of the publication period, 42 public comments were received, all of which were related to representation R2.

168. The Secretary informed Members that representation R3 only indicated his support for the development of eco-tourism and made a proposal to develop a rural railway to link up Sai Kung Town Centre with Tseung Kwan O, which was not related to the subject of amendment. In this regard, representation R3 should be treated as invalid under section 6(3)(b) of the Ordinance.

169. As for the other two representations and related comments (R1, R2 and C1 to C42), the Secretary said that they were concerned with the rezoning of the sites for residential use and were inter-related in nature. In this regard, it was recommended that the representations and comments should be considered collectively by the full Board without resorting to the appointment of an Objection Hearing Committee. Moreover, the Board should consider the representation in the Board’s regular meeting and a separate hearing session would not be necessary.

170. After deliberation, the Board agreed that representation R3 should be treated as invalid under section 6(3)(b) of the Ordinance. Members also agreed to the proposed hearing arrangement for the consideration of the representation and comment as detailed in paragraph 3 of the Paper.

Agenda Item 11

[Open Meeting]

A.O.B.

[The meeting was conducted in Cantonese.]

171. The Chairman considered that there was a need to re-examine the House Rules for conducting Town Planning Board meetings which were last reviewed in March 2012. He requested the Secretariat to review the House Rules, seeking advice from the Department of Justice as appropriate and report back to the Board in due course.

172. There being no other business, the meeting closed at 4:35 p.m.