

**Minutes of 1039th Meeting of the
Town Planning Board held on 9.8.2013**

Present

Mr. Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Mr. Timothy K.W. Ma

Professor Edwin H.W. Chan

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

Dr. Wilton W.T. Fok

Mr. Ivan C.S. Fu

Mr. Sunny L.K. Ho

Mr. Lincoln L.H. Huang

Mr. Dominic K.K. Lam

Mr. Patrick H. T. Lau

Ms. Christina M. Lee

Mr. H. F. Leung

Mr. Stephen H.B. Yau

Mr. F.C. Chan

Deputy 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

Absent with Apologies

Permanent Secretary for Development
(Planning and Lands)

Mr. Thomas T.M. Chow

Chairman

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Mr. H.W. Cheung

Ms. Janice W.M. Lai

Principal Assistant Secretary for Transport and Housing
Miss Winnie Wong

In Attendance

Assistant Director of Planning/Board
Ms. Christine K.C. Tse

Chief Town Planner/Town Planning Board
Ms. Donna Y.P. Tam

Senior Town Planner/Town Planning Board
Ms. Amy M.Y. Wu

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1038th Meeting held on 26.7.2013

[This item was conducted in Cantonese.]

1. The minutes of the 1038th Meeting held on 26.7.2013 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[This item was conducted in Cantonese]

- (i) The Court of First Instance's Judgment on the Judicial Review against the Decision of the Director of Environmental Protection and Town Planning Board in respect of the proposed Integrated Waste Management Facilities in Shek Kwu Chau (HCAL 49/2012)

2. The subject judicial review (JR) was related to the proposed Integrated Waste Management Facilities (IWMF) at Shek Kwu Chau (SKC). The following Members had declared interests on this item:

Mr. C.W. Tse	- Deputy Director of Environmental Protection
Professor K.C. Chau	- Deputy Chairman of Advisory Council on the Environment (ACE)

3. As the item was to report the Court judgment, Members agreed that the above Members should be allowed to stay at the meeting.
4. The Secretary reported that on 22.6.2012, the Board was briefed on the JR

lodged by Mr. Leung Hon Wai against the Director of Environmental Protection (DEP) and the Town Planning Board (the TPB) in respect of the DEP's decisions on 17.1.2012 to approve the Environmental Impact Assessment (EIA) report and to grant the environmental permit (EP) for the IWMF (*the 1st and 2nd decisions*) and the TPB's decision on 17.1.2012 not to uphold the opposing representations and to submit the draft SKC OZP to the Chief Executive in Council (*the 3rd decision*). The JR was heard by the Court of First Instance (CFI) on 14.11.2012 to 16.11.2012. On 26.7.2013, the CFI handed down its judgment to dismiss the JR. Members noted that a copy of the judgment had been circulated to Members prior to the meeting.

5. The Secretary further reported that the Court ruled that all the eight grounds raised by the Applicant in support of the JR had failed. The decision was summarised as follows:

- (a) the 1st to 5th grounds related to the alleged technical deficiencies and inadequacies of the EIA Report in respect of its ecological assessment, health impact assessment, technology selection, etc. In the judgment, the Court was satisfied that the EIA Report had complied with the relevant provisions or requirements set out in the technical memorandum (TM) and the study brief (SB) and DEP's decisions were not Wednesbury unreasonable;
- (b) the 6th to 7th grounds related to the alleged breach of natural justice and illegality on the part of DEP, i.e. the dual roles of the DEP as the project proponent and the approving authority of the EIA Report and the EP. In the judgment, the Court was satisfied that the DEP had played no actual or active role in either the planning of the IWMF (including the preparation of the EIA Report) or the approval of the EIA Report and the decision to issue the EP. There was segregation of personnel and duties within the Environmental Protection Department (EPD) in the infrastructure planning aspect including the preparation of the EIA report (under the Infrastructure Planning Group) and the EIA process relating to the project (under the Environment Assessment Division). There was no apparent bias or breach of natural justice. Besides, the Court also

noted that the EIA Ordinance did not by any express language exclude the DEP as an applicant and the segregation of responsibilities and duties would eliminate the alleged absurdity;

- (c) the 8th ground was that the TPB's decision was illegally made as it was based on the "mistaken material facts" that the DEP had lawfully approved the EIA Report and granted the EP under the 1st and 2nd decisions. As the Court had rejected all the grounds against the 1st and 2nd decisions, this ground therefore also failed.

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

6. The Secretary said that the applicant had not yet lodged appeal to the CFI judgment. Members noted the above judgment and agreed that the Secretary should represent the Board in all matters relating to the JR or appeal in the usual manner.

(ii) Town Planning Appeal Decision Received

Town Planning Appeal No. 5 of 2011

Proposed Comprehensive Residential Development

In "Comprehensive Development Area" zone

Various Lots in D.D. 214 and D.D. 244 and Adjoining Government Land,

Ho Chung, Sai Kung

7. The Secretary reported that that the appeal was lodged by the Appellant to the Appeal Board Panel (Town Planning) (ABP) against the decision of the Town Planning Board (the Board) to reject on review Application No. A/SK-HC/124 for proposed comprehensive residential development at the appeal site. The Appeal Site was zoned "Comprehensive Development Area" ("CDA") on the approved Ho Chung Outline Zoning Plan No. S/SK-HC/9 (the OZP). The Appellant owned about 77% of the land within the "CDA" site, including the Appeal Site in the north and a site previously occupied by Lee Seng Heng Fish's Gravy and Canning Factory Limited (LSH) in the south. The middle portion of the "CDA" site (about 23%) was owned and occupied by

Lee Kum Kee (Hong Kong) Foods Limited (LKK). According to the Master Layout Plan submitted by the Appellant, the proposed development would be implemented in two phases, comprising a total of 40 houses (including 28 houses at the Appeal Site (Phase 1), and 12 houses at the LKK and LSH sites (Phase 2)).

8. The appeal was heard by the Town Planning Appeal Board (TPAB) from 26.2.2013 to 28.2.2013. On 16.7.2013, the appeal was allowed by the TPAB mainly in view of the following considerations:

Comprehensiveness of the Proposed Development

- (a) there was evidence to show that due effort had been made by the Appellant to acquire the remaining portion of the “CDA” site for development. In this regard, the TPAB accepted that the prerequisite for allowance for phased development had been satisfied and the proposed development could be considered under Town Planning Board Guidelines No. 17 (TPB PG-No. 17);
- (b) the mechanism in allowing phased development was to address the issue of multiple land ownership. The TPAB considered that the absence of development intention for the LKK site would not undermine the planning intention of the “CDA” zone and affect the comprehensiveness of the proposed development. Otherwise, all phased development would be thwarted by an individual owner choosing deliberately not to make clear his intention;
- (c) if LKK’s position was conclusive and determinative of another owner’s section 16 application, it would mean that the owner of a site for CDA development could be held to ransom by another owner of the “CDA” site. The TPAB considered that this could not be the planning intention of the “CDA” zone. Otherwise, TPB PG-No. 17 and 18A would not have been introduced. On this aspect, the TPAB had adopted the same principles and approach expressed by the Appeal Board for the Fo Tan Appeal;

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

Potential Industrial/Residential Interface Problem

- (d) the TPAB accepted that based on the evidence and on balance of probabilities, the LKK site would not realistically be resumed for industrial use but would be redeveloped as a residential site;
- (e) as the existing use of the LKK site for soy sauce production plant had not continued, TPAB accepted the Appellant's submission that there would be no industrial/residential interface problem because the soy sauce production factory on the LKK site could not lawfully resume operation;
- (f) allowing the development would discourage or not encourage the return of polluting industrial use on the LKK site; and
- (g) the proposed development was better than the "fall-back" position of leaving the Appeal Site vacant and fenced off, and the LKK site and the LSH site in a derelict state.

9. The Secretary reported that both the Department of Justice and the Senior Counsel were of the view that the TPAB ruled against the TPB on issues of fact and they did not see any grounds for judicial review. A copy of the Summary of Appeal and the TPAB's decision dated 16.7.2013 were sent to Members for reference.

10. The Vice-chairman said that in light of the judgment, when considering future similar applications for phased development in a "CDA" site and in assessing the land use compatibility of the proposed development, the Board should take into account the chance for the residual site to be resumed for its original use e.g. industrial. For the subject case, the residual site (i.e. the LKK site) would unlikely to be resumed for industrial use and there would be no industrial/residential interface problem, given that the industrial operation had ceased for many years and there was also a planning application for its redevelopment into residential use.

11. Members noted the appeal decision and agreed that the Board would not lodge JR to TPAB's decision.

(iii) Appeal Statistics

12. The Secretary reported that as at 9.8.2013, 15 cases were yet to be heard by the Appeal Board Panel. Details of the appeal statistics were as follows:

Allowed	:	30
Dismissed	:	129
Abandoned/withdrawn/invalid	:	171
Yet to be heard	:	15
Decision outstanding	:	2
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Total	:	347

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the Draft Kwu Tung South Outline Zoning Plan No. S/NE-KTS/13
(TPB Papers No. 9395)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

13. The Vice-chairman said that other than those attending the meeting, other representers and commenters had either indicated that they would not attend the hearing or had made no reply. As sufficient notice had been given to the representers and commenters, Members agreed to proceed with the hearing in the absence of other representers and commenters.

14. The following representatives from the Government, representers and their representatives were invited to the meeting at this point:

Ms. Jacinta Woo - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), Planning Department (PlanD)

Ms. Maggie Chin - Senior Town Planner/North (STP/N), PlanD

R4 (Tse Hing Cheung, Tse Hing Tong and Tse Hing Keung)

Mr. Tse Hing Tong - Representer

Mr. T.C. Chan - Representer's representative

R7 (Lam Chi Keung, Resident Representative (RR) of Ying Pun Village)

Mr. Lam Chi Keung - Representer

Ms. Lam Yan Kiu - Representer's representative

15. The Vice-chairman extended a welcome and explained the procedures of the

hearing. He then invited the representatives from the Government to brief Members on the background to the representations.

16. With the aid of a Powerpoint presentation, Ms. Maggie Chin, STP/N of PlanD, made the following main points as detailed in the Paper:

- (a) the background of the proposed amendments as set out in paragraph 1 of the Paper - the draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/13 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). The OZP had incorporated amendments related to:
 - (i) the rezoning of the ex-Kin Tak Public School site and its adjoining land to the south and west at Fan Kam Road from “Government, Institution or Community” (“G/IC”) and “Agriculture” (“AGR”) to “Residential (Group C)2” (“R(C)2”) (Amendment Items A1 and A2), and consequential rezoning of the adjoining land to the immediate north of the school site from “G/IC” to “AGR” (Amendment A3);
 - (ii) the rezoning of an area to the south of Kwu Tung Road and to the west of Hang Tau Road from “AGR” to “Comprehensive Development Area” (“CDA”) (Amendment Item B). This was to take forward the decision of the Rural and New Town Planning Committee (RNTPC) of the Board on s.12A application No.Y/NE-KTS/3;
 - (iii) the rezoning of an area to the east of Hang Tau Road from “G/IC” to “R(C)2” (Amendment Item C). This was to take forward the decision of the RNTPC on s.12A application No.Y/NE-KTS/4; and
 - (iv) the rezoning of the existing Hang Tau Road from “AGR”, “G/IC” and “Recreation” (“REC”) to an area shown as ‘Road’

(Amendment Items D1, D2 and D3). They were technical amendments to reflect the as-built alignment of Hang Tau Road and its footpath;

- (b) a total of seven valid representations and four valid comments were received. The Board would consider all the representations and comments collectively in one group;
- (c) the representations were submitted by five members of the general public (R1, R2, R3, R5 and R6), a group of three registered owners of Lots 1143 S.A RP, S.B RP and RP in D.D. 92 (R4) and the Resident Representative (RR) of Ying Pun Village (R7);

Grounds of Representations and Representers' Proposals

- (d) the main grounds of the representations and representers' proposals as detailed in paragraph 2.3 of the Paper were summarised as follows:

*Rezoning of the site to east of Hang Tau Road from "G/IC" to "R(C)2"
(Amendment Item C) (R1 to R4 and R6 (Part))*

- (i) R1, R2 and R3 supported the rezoning of site to the east of Hang Tau Road from "G/IC" to "R(C)2" (Amendment Item C) on the grounds that the zoning amendment was reasonable (R1); the amendment complemented the development in the surrounding areas (R2) and would improve the general living environment of the area (R3). No proposal had been submitted by the representers;
- (ii) R4 commented that there was discrepancy between the zoning boundary and lot boundary (Amendment Item C) and that the eastern portion of the lots (170m²) was still within the "REC" zone. R4 proposed to extend the boundary of the "R(C)2" zone to tally with the lot boundary;

- (iii) R6 objected to Amendment Item C on the grounds that a new town should not be developed with only residential development. A quality living environment should be created for future generations. A balanced development with community facilities and open space was necessary for long-term development. No proposal has been submitted by R6;

Rezoning of Hang Tau Road from “AGR”, “G/IC” and “REC” to an area shown as ‘Road’ (Amendment Items D1 to D3) (R5)

- (iv) R5 objected to the zoning amendment as the existing Hang Tau Road was too limited and proposed to extend the Hang Tau Road westward to better serve the recreational needs at Sheung Yue River in the west and the farming community in the south;

Rezoning of the ex-Kin Tak Public School site from “G/IC” to “R(C)2” and its adjoining land from “AGR” to “R(C)2” (Amendment Items A1 and A2) (R6 (Part) and R7)

- (v) R6 objected to the zoning amendments on the same ground as his opposition to Amendment Item C. No proposal had been submitted by R6;
- (vi) R7 opposed the rezoning of the land to the immediate south of ex-Kin Tak Public School site from “AGR” to “R(C)2” (Amendment Item A2) as the existing domestic structures found on the site would be affected by the future residential development. R7 proposed to retain the original “AGR” zoning of the site;

Grounds and Proposals of Comments

- (e) four comments were received from four members of the general public

but all of them did not indicate which representation(s) they were related to. The main grounds and proposals of the comments as detailed in paragraph 2.2 of the Paper were summarised as follows:

- (i) C1 only stated his opposition without any details;
- (ii) C2 opposed to the North East New Territories (NENT) development and commented that Hong Kong needed more rural areas to serve as recreational outlets;
- (iii) C3 opposed to Amendment Items A1, A2 and C and indicated that the provision of recreational facilities could not cope with the increasing population. The representation sites under Amendment Items A1, A2 and C should be used to provide large-scale recreational facilities;
- (iv) C4 supported the development of land around the ex-Kin Tak Public School site as the concerned land was currently vacant;

[Ms. Julia M.K. Lau arrived to join the meeting at this point.]

Responses to Grounds of Representations and Representers' Proposals

- (f) PlanD's responses to the grounds of representations and representers' proposals as detailed in paragraphs 4.4 to 4.5 of the Paper were summarised as follows:

Meeting Housing Needs

- (i) to meet the pressing need for housing supply, the Government would adopt a multi-pronged approach to build up land reserve. One of the measures was to examine "G/IC" sites to avoid under-utilisation of sites which had been long reserved but without specific development programme. Rezoning these

“G/IC” sites for residential use would also enable a better utilisation of the scarce land resources;

Rezoning of the Ex-Kin Tak Public School Site and Adjoining Government Land (R6 and R7)

- (ii) the ex-Kin Tak Public School had been left vacant and the site had no designated GIC use since 2006. Government departments including Secretary for Education had confirmed that the site was not required for school development or other GIC facilities. Besides, this piece of government land had been formed and was readily available to meet the short-term housing demand. Opportunity had been taken to refine the boundary of this “R(C)2” zone to include residual vacant government land which was previously zoned “AGR” to facilitate better layout design of the residential development;

- (iii) on R7’s concern that the existing domestic structures to the immediate south of the school site would be affected by the rezoning amendment, it was noted that there were four temporary structures found on the adjoining government land to the immediate south of the school site (mostly fell on site previously zoned “G/IC” with one straddled the previous “G/IC” and “AGR” zones). According to District Lands Officer/North (DLO/N), no approval had been given for the occupation of the concerned government land or erection of temporary structures on the site. Residents living in these squatters/tolerated structures affected by clearance might be entitled for rehousing to public rental housing estates if they could fulfil the relevant eligibility criteria. The inclusion of the residual government land into the proposed housing site would enable better utilization of the land concerned to meet the pressing housing needs of the community;

Rezoning of “G/IC” site to the East of Hang Tau Road (R4 and R6)

- (iv) the ex-“G/IC” site to the east of Hang Tau Road (consisted of government land (50.4%) and private land (49.6%)) had no designated GIC use since its first designation on the Kwu Tung South OZP in 1994. Relevant government departments had indicated no requirement to use or reserve the site for GIC uses. A portion of this site was the subject of a rezoning application (No. Y/NE-KTS/4) approved by the RNTPC on 19.10.2012. In agreeing to the rezoning application, the RNTPC also agreed to rezoning the adjoining undesignated “G/IC” site to “R(C)2”;
- (v) regarding R4’s concern that there was discrepancy between the lot boundary and the zoning boundary, it was noted that the concerned area to the immediate east of the “R(C)2” zone was located at the fringe of the large “REC” zone of 18.46 ha and fell within the tentative Potential Development Area under the Planning and Engineering Study currently being undertaken to comprehensively review the development potential of the whole “REC” zone (to be completed in November 2014). The area was relatively small (170m²) and rezoning it from “REC” to “R(C)2” as requested by R4 to tally with the lot boundary would unlikely affect the comprehensive review of the whole “REC” zone. PlanD and concerned government departments had no objection to rezoning it from “REC” to “R(C)2”;

Provision of Open Space and GIC Facilities for Balanced Development (R6)

- (vi) sufficient district and local open space and other community facilities had been provided/planned in Kwu Tung South in accordance with the Hong Kong Planning Standards and Guidelines (HKPSG). Relevant government departments had no objection to the rezoning of the “G/IC” sites for residential

development and had confirmed that there was no need to reserve the sites for other GIC facilities;

Road Network Serving Kwu Tung South (R5)

- (vii) Hang Tau Road was one of the local roads serving the Kwu Tung South area with village roads/tracks connecting to Hang Tau Village and other rural neighbourhoods. Commissioner for Transport (C for T) advised that there was no plan to extend the Hang Tau Road westward. Nevertheless, the existing traffic conditions and road network in Kwu Tung South area would be examined under the Planning and Engineering Study for Kwu Tung South – Feasibility Study;

Responses to Grounds of Comments

- (g) PlanD's responses to grounds of comments as detailed in paragraph 4.6 of the Paper were summarised as follows:

Oppose to the NENT Development (C2)

- (i) the NENT New Development Area development fell outside the Kwu Tung South OZP and was not related to the current OZP amendments;

Oppose to Amendment Items A1, A2 and C (C3)

- (ii) there were currently some recreational facilities including a private club, a horse riding school, a golf course and a holiday camp in Kwu Tung South to serve the local community and general public. Relevant government departments advised that there was no need to reserve the sites for recreational use;

Support Development around the ex-Kin Tak Public School Site (C4)

(iii) support was noted;

- (h) PlanD's views – R1, R2 and R3's support of Amendment Item C was noted. PlanD did not support R5, R6 and R7 for reasons as detailed in paragraphs 6.3 of the Paper but considered that the draft Kwu Tung South OZP No. S/NE-KTS/13 should be amended to meet R4 by amending the eastern boundary of the "R(C)2" zone to the east of Hang Tau Road as shown on Annex VIII of the Paper.

17. The Vice-chairman then invited representers and their representatives to elaborate on their representations.

R4 (Tse Hing Cheung, Tse Hing Tong and Tse Hing Keung)

18. Mr. T.C. Chan made the following main points:

- (a) R4 supported Amendment Item C but requested the Board to extend the boundary of the "R(C)2" zone to tally with the lot boundary by including the residual area in the eastern portion of the three lots; and
- (b) the owner had been living at the site covering the three lots for many years and planned to redevelop the site into three new houses. The inclusion of the residual area into the "R(C)2" zone would facilitate the redevelopment and would be a better utilisation of land resources.

19. Mr. Tse Hing Tong make the following main points:

- (a) he was the owner of the three lots and his family had been living at the site for about 30 years. The existing old buildings were in dilapidated conditions and had undergone several times of renovation; and

- (b) he requested the Board to extend the boundary of the “R(C)2” zone to include the small residual area in the eastern portion of the lots so as to facilitate the redevelopment of the site. The new houses would only be occupied by his family members in the future.

R7 (Lam Chi Keung, Resident Representative (RR) of Ying Pun Village)

20. Mr. Lam Chi Keung made the following main points:

- (a) rezoning the ex-Kin Tak Public School site to “R(C)2” (Amendment Items A1 and A2) was inappropriate as it would exert additional traffic pressure on Fan Kam Road, noting that there were already some large residential developments in the vicinity, such as The Green and Miami Crescent. The existing road was narrow and the Government did not have any plan to widen it;
- (b) he requested the Government to release the ex-Kin Tak Public School site for the use of an activity centre serving the residents of the nearby five villages. These villages were facing aging problem and there was currently a lack of activity and recreational spaces for the elderly villagers;
- (c) the ex-Kin Tak Public School site had been left vacant since 2006. The current inadequacy of school places in the Northern district showed that the Government had no foresight when planning the use of the ex-Kin Tak Public School site;
- (d) there were about 20 to 30 squatters in the area and it was unfair that four of these squatters were affected by the rezoning of the ex-Kin Tak Public School. Although PlanD stated that residents living in these squatters affected by clearance might be entitled for rehousing to public rental housing estates, some of these residents might not be able to fulfil the relevant eligibility criteria; and

- (e) the Board should adopt a people-oriented approach in planning the area and take into account the needs of the villagers.

21. As the presentations from the representers and their representatives had been completed, the Vice-chairman invited questions from Members.

Provision of G/IC facilities

22. Members had the following questions:

- (a) whether the ex-Kin Tak Public School site had been reserved for any designated GIC use after it had been left vacant;
- (b) in view of the inadequacy of school places in the Northern District and that there was a shortfall of 25 classrooms for primary school in Kwu Tung South as shown in Annex VI of the Paper, whether Education Bureau had been consulted on the use of the ex-Kin Tak Public School site;
- (c) what was the existing elderly population in the nearby five villages and where was the nearest elderly centre or activity centre serving them?
- (d) whether R7 had sought support from the relevant government bureau/department for the use of the ex-Kin Tak Public School site as an elderly activity centre?
- (e) was there adequate provision of GIC facilities serving the population in the area?

23. On questions (a) and (b), Ms. Jacinta Woo, DPO/STN, made the following responses:

- (a) the ex-Kin Tak Public School site had been left vacant since 2006 and the site had no designated GIC use since then. Relevant government

bureaux/departments including Education Bureau had been consulted on the rezoning of the site and confirmed that it was not required for school development or other GIC facilities. The Education Bureau considered that the site was too remote for school use; and

- (b) there were two “G/IC” sites (each more than 1 ha) in Kwu Tung South area, near Kwu Tung Road and Kam Hang Road respectively, which had not yet been designated for any GIC uses. These two sites were located closer to residential developments and were more appropriate for school development if required.

24. On questions (c) and (d), Mr. Lam Chi Keung (R7) said that there were currently more than 300 elderly people with age over 65 years old in the area. He had made several requests to the Home Affairs Department for use of the ex-Kin Tak Public School site as an elderly activity centre but there was no reply. The nearest activity centre currently available was located in Sheung Shui.

25. On question (e), Ms. Jacinta Woo said that the provision of GIC facilities in the Kwu Tung South area was planned in accordance with the HKPSG. As the population in the area was low, there was a low demand for GIC facilities and hence not all types of GIC facilities would be provided within the district. If necessary, people within the district could make use of the facilities in Fanling and Sheung Shui areas. She added that Social Welfare Department had reviewed the overall need for elderly facilities in Hong Kong. PlanD was carrying out a territorial search to identify suitable sites for the development of those facilities.

Land Ownership

26. Members had the following questions:

- (a) what was the landownership of the sites covered by Amendment Items A1 to A3 and of the adjoining area?
- (b) what was the rationale behind the rezoning under Amendment Item A3,

i.e. the rezoning of land to the immediate north of the ex-Kin Tak Public School site from “G/IC” to “AGR”?

- (c) was there any difference in land status between the four squatters affected by the rezoning under Amendment Items A1 and A2 (i.e. the “R(C)2” zone) and those licensed houses fell outside the “R(C)2” zone?

27. With the aid of a plan, Ms. Jacinta Woo made the following responses:

- (a) Amendment Item A1 (site rezoned from “G/IC” to “R(C)2”) and Amendment Item A2 (two sites rezoned from “AGR” to “R(C)2”) fell within government land, whereas Amendment Item A3 (site rezoned from “G/IC” to “AGR”) fell within private land;
- (b) there were two sites under Amendment Item A2. The northern site was residual government land surrounded by private land and hence opportunity was taken to include it into the “R(C)2” zone for residential development. For the southern site abutting Fan Kam Road, as the ex-school site was in an elongated shape with a narrow entrance of about 4.5m fronting Fan Kam Road, opportunity was taken to refine the “R(C)2” zoning boundary to include this part of the government land to facilitate better layout design for the future residential development. For Amendment Item A3, the concerned site was a piece of private land with active agriculture use and hence opportunity was taken to rezone it to “AGR”;
- (c) there was a number of licensed houses within the government land located to the south of the Amendment Items A1 and A2. These houses were currently being occupied and the feasibility of removing them was subject to further study; and
- (d) the four temporary structures located within the “R(C)2” zone were squatters registered in 1982. According to DLO/N, they were tolerated structures and no approval had been given for the erection of these

structures on the site. Hence, they were of different status as the licensed houses located to the south.

“R(C)2” Development

28. A Member had the following questions:

- (a) with a maximum plot ratio of 0.4 and a maximum building height of 3 storeys, whether the “R(C)2” zone at the ex-Kin Tak Public School site would have a similar form of development as the nearby high-class residential development, The Green?
- (b) would there be sufficient capacity of Fan Kam Road to accommodate the additional traffic demand generated by the future development of the “R(C)2” zone?

29. Ms. Jacinta Woo replied that with a total area of about 0.7 ha and a maximum plot ratio of 0.4, the future development at the “R(C)2” zone at the ex-Kin Tak Public School site could provide about 36 flats. The future form of development would be decided by the future developer. She said that Transport Department (TD) had been consulted and had no objection to the “R(C)2” zone from traffic and transport perspective. TD was currently examining the widening works of Fan Kam Road.

30. As the representers and their representatives had finished their presentations and Members had no further questions, the Vice-chairman said that the hearing procedures had been completed and that the Board would deliberate on the representations in their absence and inform them of the Board’s decision in due course. The Vice-chairman thanked them and the Government’s representatives for attending the hearing. They all left the meeting at this point.

Deliberation Session

31. The Vice-chairman invited Members to consider the representations taking into consideration all the written submissions and the relevant oral representations and

materials presented at the meeting.

32. Members noted the support of Amendment Item C by R1, R2 and R3 and agreed that the draft Kwu Tung South Outline Zoning Plan No. S/NE-KTS/13 should be amended to meet R4 by amending the eastern boundary of the “R(C)2” zone to the east of Hang Tau Road. Members also agreed that the proposed amendment to the draft Kwu Tung South OZP No. S/NE-KTS/13 as shown at Annex VIII of Paper was suitable for publication for further representation in accordance with the provisions of section 6(C)2 of the Town Planning Ordinance. However, Members did not support R5 to R7 and considered that the draft plan should not be amended to meet these representations.

33. Members then went through the reasons for not upholding Representations No. R5 to R7 as stated in paragraphs 6.3 of the Paper and considered that they were appropriate.

Representations No. R1, R2 and R3

34. After further deliberation, the Board noted the support of Representations No. R1, R2 and R3.

Representation No. R4

35. After further deliberation, the Board agreed to meet Representation No. R4 by amending the eastern boundary of the “Residential (Group C)2” zone to the east of Hang Tau Road.

Representation No. R5

36. After further deliberation, the Board decided not to uphold Representation No. R5 for the following reason:

Hang Tau Road was one of the local roads serving the Kwu Tung South area with village roads/tracks providing vehicular access to local villages and rural neighbourhoods. There was, at present, no plan for extending Hang Tau Road

westward. Nevertheless, the existing traffic conditions and road network in Kwu Tung South area would be examined under the Planning and Engineering Study for Kwu Tung South – Feasibility Study.

Representation No. R6

37. After further deliberation, the Board decided not to uphold Representation No. R6 for the following reasons:

- (a) rezoning the ex-Kin Tak Public School site and the site to the east of Hang Tau Road (under Amendment Items A1, A2 and C) for residential development was appropriate and would better utilise the land resources to meet the housing needs of the community; and
- (b) rezoning of the “G/IC” sites for residential development would not have any adverse impacts on the provision of open space, community facilities or the living environment in the Kwu Tung South area.

Representation No. R7

38. After further deliberation, the Board decided not to uphold Representation No. R7 for the following reason:

rezoning the adjoining Government land to the south of the ex-Kin Tak Public School site for residential development was appropriate and would better utilise the land resources to meet the housing needs of the community.

Agenda Item 4

[Open Meeting]

Further Consideration of the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/E
(TPB Paper No. 9423)

[The meeting was conducted in Cantonese.]

39. The following representatives from the Government were invited to the meeting at this point:

- | | |
|---------------------|---|
| Ms. Jacinta Woo | - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), Planning Department (PlanD) |
| Mr. David Ng | - Senior Town Planner/New Plans (STP/NP), PlanD |
| Dr. Yip Yin, Jackie | - Senior Conservation Officer (Technical Services), Agriculture, Fisheries and Conservation Department (AFCD) |
| Miss Cynthia Chan | - Nature Conservation Officer, AFCD |

40. The Vice-chairman extended a welcome and then invited the representatives of PlanD to brief Members on the background to the Paper.

41. With the aid of a Powerpoint presentation, Mr. David Ng, STP/NP of PlanD, made the following main points as detailed in the Paper:

Background

- (a) on 26.4.2013, the Town Planning Board (the Board) gave preliminary consideration to the draft So Lo Pun OZP No. S/NE-SLP/D and agreed that the draft OZP was suitable for submission to the North District Council (NDC) and the Sha Tau Kok District Rural Committee (STKDRC) for consultation;

- (b) the STKDRC and NDC were consulted on the draft OZP on 15.5.2013 and 20.5.2013 respectively and they all expressed objection to the draft OZP. The village representative (VR) of So Lo Pun village lodged objections to the draft OZP on 15.5.2013. On 28.5.2013, STKDRC submitted a counter proposal to the draft OZP. Up to early August 2013, a total of 100 objections from the local villagers of So Lo Pun Village were received. Comments from environmental concern groups including Designing Hong Kong Limited, World Wide Fund for Nature Hong Kong, Conservancy Association and Kadoorie Farm and Botanic Garden had also been received;

General Comments of STKDRC, NDC and Villagers

- (c) the general comments of STKDRC, NDC and Villagers as detailed in paragraph 3.1 of the Paper were summarised as follows:

Contravention of Basic Law

- (i) about 90% of the land in So Lo Pun area (the Area) was zoned as “Conservation Area” (“CA”) and “Green Belt” (“GB”) within which about 95% and 35% was private land. This had deprived the rights of the private landowners and contravened the Basic Law. Compensation should be provided for their loss of land value;

Inadequate Infrastructure

- (ii) the Area was not served by any road and other infrastructural and utility services. These basic facilities should be provided to enable the local villagers to revitalize the village. Within the “CA” zone, any local improvement works were in general not allowed and no government department was willing to undertake the improvement works;

Lack of Vision

- (iii) planning should be “people-oriented” and some agri- and eco-tourism and recreational activities should be promoted to boost the local economy. A balance should be struck between conservation and development right of landowners in the planning of the rural area;

New Development Area in Sha Tau Kok to Allow Expansion of the Villages

- (iv) consideration might be given to designate a new development area in Sha Tau Kok to allow expansion of the villages in exchange for the privately owned land for conservation purpose;

Insufficient Land for Small House Development in “Village Development Area” (“V”) zone

- (v) only about 9% of land was designated for “V” zone which could not meet the Small House demand;

Specific Proposals of STKDRC and Villagers

- (d) the STKDR and villagers submitted the following proposals to the draft OZP:
 - (i) to rezone the north-eastern part of the Area to “GB”, “Recreation” (“REC”) and “Agriculture” (“AGR”) for agricultural and recreational uses to promote agri- and eco-tourism;
 - (ii) to enlarge the “V” zone at the central basin region with a total area of not less than 6 hectares (ha) for Small House developments;
 - (iii) to rezone the ex-school site and its surrounding area to “Government, Institution or Community” (“G/IC”) to allow conversion of the premises for the display of So Lo Pun’s village

- history;
- (iv) to rezone all private land to “V”, “AGR” or “REC” but not “CA” or “GB”; and
 - (v) to rezone the south-western part of the Area from “GB” to “V” and “AGR”;

General Comments of the Environmental Concern Groups

- (e) the general comments of the environmental concern groups as detailed in paragraph 3.2 of the Paper were summarised as follows:

Resuming Village Layout Plans Preparation

- (i) sustainable infrastructure layout plans and guideline should be included to accommodate the existing or future village development. The failure to ensure a sustainable layout would lead to a deterioration of the infrastructure, environment, ecology and create health and social problem;

Designation as Country Park

- (ii) to protect its high conservation and landscape value which complemented the overall naturalness and the landscape beauty of the surrounding Plover Cove Country Park (PCCP), it was proposed to designate the Area as Country Park;

Specific Proposals of the Environmental Concern Groups

- (f) the environmental concern groups had the following proposals:
 - (i) to transfer “Agricultural Use” from Column 1 to Column 2 in the Notes of the “CA” zone and set approval conditions to ensure that the key areas/habitats (e.g. the seagrass bed) would not be significantly affected;
 - (ii) to designate seagrass and mangrove community from “CA” zone to

“Site of Special Scientific Interest” (“SSSI”);

- (iii) to rezone the upper section of the main watercourse and the riparian areas from “GB” (in which ‘Barbecue Spot’, ‘Picnic Area’ and ‘Tent Camping Ground’ are always permitted) to “CA”. Apart from the lower section of the watercourse which had already been designated as ‘Ecologically Important Stream’ (‘EIS’), AFCD should also designate the upper section as ‘EIS’ as the upper section and its riparian area should share the same protection status with the lower section;
- (iv) to reduce the size of the “V” zone, noting that there was no population in the Area; and
- (v) to transfer ‘Barbecue Spot’ use from Column 1 to Column 2 of “GB” zone;

Planning Department’s Responses

- (g) PlanD’s responses to the comments and proposals as detailed in paragraph 4.1 of the Paper were summarised as follows:

Contravention of Basic Law

- (i) Department of Justice (DoJ) advised the draft OZP would not involve any expropriation or transfer of ownership of the land concerned, nor would it leave the land without any meaningful use or any economically viable use. The draft OZP would not amount to “deprivation” of property. Under the Town Planning Ordinance, there was no provision for compensation due to curtailment of right by planning action. Besides, since “Agricultural Use” was always permitted under such zones, there was no deprivation of the rights of the landowners;

Inadequate Infrastructure

- (ii) there was no existing population in the Area and hence there

was no demand for provision of infrastructure. The “V” zone in the draft OZP would accommodate a total planned population of around 1,000 persons. Relevant works departments would keep in view the need for infrastructure in future subject to resources availability. Flexibility had been provided in the Notes of the draft OZP for all local public works co-ordinated or implemented by the government;

- (iii) any new roads proposed to connect with existing road network would have to pass through the Country Park. The impact would have to be carefully assessed and consent of the Country and Marine Parks Authority must be obtained;

Lack of Vision

- (iv) the Area had high landscape value and was an integral part of the natural woodlands in the adjoining PCCP with a wide spectrum of natural habitats. AFCD advised that the proposed “CA” and “GB” zones were considered appropriate to preserve the natural environment and its natural resources. “V” zone had been proposed to consolidate village development so as to avoid undesirable disturbances to the natural environment and facilitate an orderly development and efficient provision of necessary infrastructure;
- (v) the Area had been studied in the context of the “Study on the Enhancement of the Sha Tau Kok Rural Township and Surrounding Areas” (the STK Study) completed in mid 2013. For So Lo Pun, the STK Study recommended the provision of a mobile toilet and information boards at the entrance to the Area while a majority of the Area was proposed to be preserved to protect its natural environment. No major development proposals had been recommended under the STK Study.

New Development Area in Sha Tau Kok to Allow Expansion of the Villages

- (vi) the Environment Bureau, from the nature conservation policy angle and in particular under the New Nature Conservation Policy, was of the view that whether the Government should resume privately owned land to achieve the nature conservation purpose would depend on whether that was for a public purpose, and each case would be decided on its own merits;
- (vii) there was no policy to compensate lot owners whose lands were zoned for nature conservation purpose. Besides, Sha Tau Kok had not been identified as a new development area under the strategic studies. In any event, formulation of land policy was outside the purview of the Board;

Resuming Village Layout Plan Preparation

- (viii) the preparation of new village layout plan for village would depend on a number of factors such as implementation prospect of the layout plan, manpower and priority of works within PlanD. The need for preparation of new village layout for the “V” zone to be covered by the OZP would be reviewed as appropriate;

Country Park Designation

- (ix) the designation of the Area as Country Park was under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) which was outside the purview of the Board;
- (x) according to the DAFC, the suitability of the So Lo Pun enclave for country park designation would be assessed in due course by

drawing reference to criteria such as conservation value, landscape and aesthetic value, recreation potential, and existing scale of human settlement;

Extension of “V” Zone

- (xi) So Lo Pun was the only recognized village in the Area. Its ‘VE’ covered an area of about 8.58 ha and was mainly at the central part of the Area. District Lands Officer/North (DLO/N) had advised that the 10-year forecast for Small House demand for the Area was 270 and there was no outstanding nor approved Small House application. The total land required was about 6.75 ha;
- (xii) the ‘VE’ comprised not only existing village clusters and ruin structures of So Lo Pun Village, but also some hilly slopes in the north with some fallow agricultural land and fresh water marshes at the centre and a stream course in the south;
- (xiii) two areas had been proposed for village expansion, one at the north-eastern part (0.65 ha) which was contiguous to the existing village cluster and currently consisted of fallow agricultural land with shrubs and trees, and one at the south-western part (0.99 ha), which mainly comprised dry and fallow agricultural land and its adjoining gentle slope. The southern boundary of the proposed “V” zone extension was kept away from the natural stream by about 20m;
- (xiv) within the proposed “V” zone (about 4.12 ha), about 3.36 ha of land could be available for Small House development (or equivalent to about 134 Small House sites);
- (xv) although the supply of land within “V” zone was still

insufficient to meet the future demand, an incremental approach for designation of “V” zone for Small House development had been adopted, given the development constraints of the area, the current population in the village and inadequate infrastructural provision. There was provision under the OZP for planning application for Small House development in “GB” zone which would be considered by Board on individual merit;

Rezoning the north-eastern part from “CA” and “GB” to “AGR”, “GB”, and “REC”

- (xvi) AFCD advised that the wetland complex should be retained for conservation purpose and the “CA” zoning was appropriate. Designation of the adjoining natural woodland, and dense vegetated hillslopes as “GB” was appropriate;
- (xvii) for the remaining area with relatively low landscape and conservation interests, they had already been designated for “V” zone to cater for Small House development. There was limited opportunity for designating other suitable land for “AGR” and “REC” zonings on the draft OZP;
- (xviii) agricultural use was a Column 1 uses in all zones, and could be undertaken in accordance with the Notes of the draft OZP. Other recreational uses, such as ‘Holiday Camp’ and ‘Field Study/Education/Visitor Centre’, were also permitted in “GB” zone upon application to the Board;

Rezoning from “CA” and “GB” to “G/IC” Zone

- (xix) as the total planned population of the Area would be about 1,000 persons, only small-scale and local facilities commensurate to the general need of the area would be provided as and when appropriate. Under the STK Study, the potential for tourism

development in So Lo Pun had been examined and apart from the provision of a mobile toilet and information boards at the entrance to the Area, there were no major development proposals. "Village Office" was always permitted in the "V" zone while visitor centre, refuse collection point (RCP) and helipad were Column 2 uses under the "GB" zone, which might be permitted by the Board on individual merits;

Agricultural Use in "CA" zone

- (xx) in the "CA" zone, permission from the Board was required for any works relating to diversion of streams, filling of land/pond or excavation of land which might cause adverse impacts on the natural environment. There was no strong justification for imposing more stringent control on Column 1 uses in the "CA" zone concerned. From the perspective of agriculture, AFCD advised that the proposed transfer of "Agricultural Use" from Column 1 to Column 2 in the Notes of the "CA" zone was not supported as agricultural activities and nature conservation could be effectively integrated;

Designation of Seagrass and Mangrove Community from "CA" to "SSSI"

- (xxi) according to AFCD, the proposal of protecting the seagrass and mangrove by conservation zonings was supported. However, there was currently insufficient justification to designate the area concerned as "SSSI" and the proposed "CA" zoning was appropriate;

Upper part of the natural stream be zoned as "CA" and designated as 'EIS'/Transferring 'Barbecue Spot' from Column 1 to Column 2 of "GB" Zone

- (xxii) according to AFCD, a natural stream flowed across the Area in

the south-west to north-east direction. The downstream part of the stream was identified as an 'EIS' due to the presence of a healthy and natural population of a fish species *Oryzias curvinotus* (弓背青鱗) and this part of the stream formed part of the wetland complex in the Area which had been proposed for "CA" zone. As the upper parts of the stream was yet to be justified as 'EIS' which required further investigation, it was not appropriate to designate the upper part of the natural stream as "CA" zone;

(xxiii) regarding the environmental concern groups' proposal to set up a buffer zone for a tributary which was currently within the "V" zone, it should be noted that the concerned stream was not identified as an EIS and there were existing mechanisms to ensure that any adverse impacts on natural streams would be properly addressed;

(xxiv) noting that 'Barbecue Spot' and 'Picnic Area' were facilities operated by the Government and excluded sites that were privately owned and/or commercially operated and 'Tent Camping Ground' referred to any place open to the public where tents were put only for temporary lodging for recreational or training purpose, adverse impacts from such uses onto the subject "GB" zone should not be significant. DAFC had no strong views on keeping these uses in Column 1 of the subject "GB" zone;

Land Use Zonings

- (h) a table comparing the land use budget of the Area covered by the draft So Lo Pun OZP No. S/NE-SLP/E and the previously draft So Lo Pun No. S/NE-SLP/D was shown below:

Zoning	Draft So Lo Pun OZP No. S/NE-SLP/D (ha / %)		Draft So Lo Pun OZP No. S/NE-SLP/E (ha / %)		Increase / Decrease (ha / %)	
Village Type Development	2.52	9.1%	4.12	14.89%	+1.6	+ 63.49%
Green Belt	17.15	61.96%	15.51	56.03%	-1.64	-9.56%
Conservation Area	8.01	28.94%	8.05 (*)	29.08%	+0.04	+0.49%
Total Planning Area	27.68	100.00	27.68	100.00	No change	No change

(*) *Minor boundary adjustments to finetune the boundaries of “CA” zonings, taking AFCD’s latest comments into account.*

- (i) the NDC and the STKDRC would be consulted after the Board’s agreement to the publication of the draft So Lo Pun OZP under section 5 of the Ordinance either before the gazetting or during the exhibition period of the OZP depending on the meeting schedules of NDC and STKDRC;
- (j) Members were invited to:
 - (i) note the comments from and responses to the NDC, the STKDRC, the local villagers and the environmental concern groups on the draft So Lo Pun OZP No. S/NE-SLP/D;
 - (ii) agree that the draft So Lo Pun OZP (to be renumbered as S/NE-SLP/1 upon gazetting) and its Notes (Annexes I and II of the Paper) are suitable for exhibition for public inspection under section 5 of the Ordinance;
 - (iii) adopt the Explanatory Statement (Annex III of the Paper) as an expression of the planning intentions and objectives of the Board for various land use zonings of the draft So Lo Pun OZP No. S/NE-SLP/E; and
 - (iv) agree that the Explanatory Statement is suitable for exhibition for public inspection together with the draft OZP and issued under the name of the Board.

42. As the presentations from the representative of PlanD had been completed, the Vice-chairman invited questions and comments from Members.

Zonings of the Natural Stream

43. The Vice-chairman and a Member had the following questions:

- (a) noting that the natural stream in the Area was an important ecological habitat for rare species, why there were two different approaches in the zoning designations for the upper and lower parts of the stream (i.e. the upper and lower parts of the stream was zoned “GB” and “CA” respectively)?
- (b) with a less stringent preservation control in the upper part of the stream, would the habitat of the lower part of the stream be affected given the ecological connectivity of the stream course?

44. Dr. Yip Yin, Jackie of AFCD had the following responses:

- (a) AFCD would take into account the ecological value of the area, the existing site condition and its adjoining area in deciding whether an area should be zoned “CA”. The “CA” zoning covered the wetland complex in So Lo Pun area including the intertidal habitats with mangrove and seagrass bed, reed pond, the lower part of a natural stream identified as an EIS and the freshwater marsh, which was of high ecological importance. A relatively high diversity of fish and a number of rare species of conservation interest had been recorded in the wetland complex. The “CA” zoning was considered appropriate to protect and preserve the wetland complex;
- (b) the lower part of the natural stream was identified by the AFCD as an ‘EIS’ as a healthy and natural population of *Oryzias curvinotus* was found there. It formed part of the wetland complex and was zoned

“CA”. For the upper part of the stream, there was no record yet for the presence of a population of *Oryzias curvinotus*. Hence, it was yet to be justified as an ‘EIS’ and further investigation and review would be undertaken. The proposed “GB” zone at the upper part of the stream was considered appropriate at this stage; and

- (c) AFCD agreed that the upper and lower parts of the stream were connected ecologically. Hence, AFCD did not agree to the “V” zone expansion proposed by the villagers as the area, which was largely covered by natural vegetation, was in close proximity to the upper part of the stream and it would be undesirable to allow village developments close to the stream. In this regard, the southern boundary of the proposed “V” zone extension was kept away from the natural stream by about 20m after balancing the Small House demand and nature conservation. Besides, AFCD considered it appropriate to zone the area around the upper part of the stream course as “GB”, as there was a presumption against development within a “GB” zone.

Extension of “V” Zone

45. Members had the following questions;

- (a) whether the current 10-year forecast of Small House demand was reasonable and justified?
- (b) noting that land within the proposed “V” zone (4.12 ha) under the revised land use budget of the draft OZP would only be able to meet 50% of the Small House demand, whether DPO/STN had any alternative plans should there be further public objection after gazetting the OZP and how to strike a balance between the need of the villagers and the conservation need?
- (c) there was currently no vehicular access to the Area and villagers could only make use of water-borne transport or/and on foot. How could the

existing infrastructure cope with the future increase in population and housing within the “V” zone?

46. Ms. Jacinta Woo, DPO/STN, had the following responses:

- (a) PlanD had assessed the Small House demand of the Area based on the DLO/N’s latest information on the 10-year forecast of Small House demand provided by the Indigenous VR of So Lo Pun Village. According to their estimation, the 10-year forecast for Small House demand (2011-2020) for So Lo Pun area was 270. There was neither outstanding nor approved Small House application. PlanD was in no position to verify the accuracy of the forecast;
- (b) in the course of OZP preparation, PlanD had been very cautious in designating appropriate land use zonings for the Area and ensured that only land of relatively low landscape and conservation value would be designated for village development. While preserving the ecological value of the area, PlanD also needed to consider the needs of the villagers. It should be noted that during the consultation of the draft OZP in May 2013, there were a total of 100 objections from the local villagers expressing that they would return to live in the village in future; and
- (c) the Area was located in a remote area with no vehicular access. At present, it was only accessible by water-borne transport and there was a pier. Given the development constraints of the area and inadequate infrastructural provision, an incremental approach was adopted for designation of “V” zone for Small House development. Relevant works departments would keep in view the need for infrastructure in future and if necessary, new infrastructure facilities would be provided subject to resources availability. In this regard, flexibility had been provided in the Notes of the draft OZP to allow for geotechnical works, local public works and environmental improvement works co-ordinated or implemented by the government.

47. A Member supported the adoption of an incremental approach for the designation of “V” zone. The current provision of land within the “V” zone, which met 50% of the new Small House demand, was a proper balance between the need for Small House development and conservation. The zonings could be reviewed in future if warranted. Besides, new infrastructure facilities could be provided to meet future development need of the villagers if necessary.

[Ms. Bonnie J.Y. Chan arrived to join the meeting at this point.]

Overall Planning of the Area

48. Some Members had the following comments:

- (a) the overall planning intention of the Area should be to preserve the existing special character of the Area;
- (b) land use zonings on the OZP should not hinder the natural development of the existing ecosystem of the Area;
- (c) the capacity of the existing local infrastructure facilities (e.g. transport, fresh water, sewerage etc.) should be properly assessed so as to ascertain the amount of population that could be accommodated within the Area;
- (d) planning should be visionary and proactive such that the population target, planned infrastructure facilities and development restrictions should be set out at the beginning of the planning stage; and
- (e) compensation might be considered by means of land exchange to indigenous villagers whose private lands were zoned for conservation purpose.

49. In sum, Members generally agreed that there were different planning considerations and interests that needed to be taken into account in the preparation of land

use zonings for the OZP of the Area, including the need to preserve the ecological habitat, areas of conservation value as well as the development needs of the local villagers. Noting the development constraints and the inadequate infrastructural provision of the Area, some Members expressed appreciation to the planning work and researches/studies undertaken by PlanD and AFCD and agreed that the current land use zonings on the OZP had already struck a balance between the development needs of villagers and nature conservation of the Area.

50. As Members had no further questions to raise, the Vice-chairman thanked the Government's representatives for attending the meeting. They all left the meeting at this point.

51. Members noted the comments from and responses to the NDC, the STKDRC, the local villagers and the environmental concern groups on the draft So Lo Pun OZP No. S/NE-SLP/D. Members also agreed that:

- (a) the draft So Lo Pun OZP (to be renumbered as S/NE-SLP/1 upon gazetting) and its Notes (Annexes I and II of the Paper) were suitable for exhibition for public inspection under section 5 of the Ordinance:
- (b) to adopt the Explanatory Statement (Annex III of the Paper) as an expression of the planning intentions and objectives of the Board for various land use zonings of the draft So Lo Pun OZP No. S/NE-SLP/E; and
- (c) that the Explanatory Statement was suitable for exhibition for public inspection together with the draft OZP and issued under the name of the Board.

[The meeting adjourned for a five-minute break.]

[Mr. F.C. Chan, Mr. Eric Hui, Dr. C. P. Lau, Mr. Patrick H.T. Lau, Dr. Wilton W.T. Fok left the meeting at this point.]

Agenda Item 5

[Open Meeting]

Review of Application No. A/NE-TK/426

Proposed 8 Houses (New Territories Exempted Houses – Small Houses) in “Green Belt” and “Village Type Development” zones, Lots 138 S.A ss.1 S.A, S.A ss.1 S.B, S.A ss.1 RP, S.A ss.2 S.A, S.A ss.2 S.B, S.B ss.1 & S.B ss.3, 145 S.A, S.B & S.C, 146, 149 and 150 S.A & RP in D.D.28 and Adjoining Government Land, Lung Mei, Tai Po

(TPB Paper No. 9396)

[The meeting was conducted in Cantonese.]

52. The Vice-chairman informed the meeting that the applicants had indicated that they would not attend the review hearing. The following representative of the Planning Department (PlanD) was invited to the meeting at this point:

Ms. Jacinta Woo - District Planning Officer/Sha Tin, Tai Po
and North (DPO/STN), PlanD

53. The Vice-chairman extended a welcome and then invited DPO/STN to brief Members on the review application.

54. With the aid of a Powerpoint presentation, Ms. Jacinta Woo, DPO/STN, presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicants sought planning permission to build eight proposed houses (New Territories Exempted Houses (NTEHs) - Small Houses) on the application site (the Site) under s.16 of the Town Planning Ordinance (the Ordinance). The Site fell within an area zoned “Village Type Development” (“V”) (about 1%) and “Green Belt” (“GB”) (about 99%) on the approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/17;

- (b) the Site was located on densely vegetated natural hillside covered with some shrubs and trees. It was mostly within the village ‘environs’ (‘VE’) of Lung Mei, Wong Chuk Tsuen and Tai Mei Tuk and was about 45m away from Tai Po Lung Mei Road leading to Ting Kok Road;
- (c) the surrounding areas were mainly rural in character. There were village houses of Lung Mei, Tai Mei Tuk and Wong Chuk Tsuen located to its south. A natural stream course flowing from north to south was located to the immediate east of the site. The areas to the north and east of the site were woodland areas covered by mature trees and dense vegetation;
- (d) the Rural and New Town Planning Committee (the RNTPC) rejected the application on 8.2.2013 for the following reasons:
 - (i) the proposed development was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
 - (ii) the proposed development did not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance in that the proposed development would involve extensive clearance of existing natural vegetation and affect the existing natural landscape on the surrounding environment; and
 - (iii) the proposed development did not comply with the interim criteria for consideration of application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape and

sewerage impacts on the surrounding areas;

- (e) the applicant applied for a review and put forth the following justifications as detailed in paragraph 3 of the Paper and summarised as follows:
- (i) all the proposed Small Houses fell within the 'VE', except House 7 and House 8 which fell partly (about 50%) within the 'VE'. There were 8 similar applications within the same "GB" zone and in the vicinity of the Site approved by the Board;
 - (ii) there was insufficient land within the "V" zone to cater for the existing and future demand for Small Houses. The Site was in close proximity to the village and the proposed development would not result in urban sprawl;
 - (iii) the applicants were indigenous villagers of the recognized village and wished to build the Small Houses for living together with their families. They had no other alternative piece of land available for the proposed Small Houses;
 - (iv) the applicants agreed to follow the TPB's requirement for landscaping the peripheral area of the proposed Small Houses and would also submit sewerage and drainage proposals up to the satisfaction of Environmental Protection Department and Drainage Services Department. The proposed Small Houses would not have any adverse impact on the livelihood of the Lung Mei Village; and
 - (v) the applicants had spent a lot of time and efforts on the Small House application and wished to enjoy such an once-in-a-life privilege for building Small House for their families.
- (f) departmental comments - comments of government departments were

detailed in paragraph 5 of the Paper. The main comments were:

- (i) the Director of Environmental Protection (DEP) did not support the applicant as he had concerns on the potential water quality impact on the downstream Lung Mei beach and whether the applicants could resolve the technical and land issues involved for making connection to the planned sewerage system;
- (ii) the Chief Engineer/Mainland North of Drainage Services Department (DSD) commented that House 1 was very close to the adjacent natural stream course. There was no public drain in the vicinity and approval condition on drainage proposal was required;
- (iii) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD & L, PlanD) objected to the application. The subject “GB” zone acted as a significant buffer area between village development and the undisturbed hillside of Pat Sin Leng. The approval of the application would likely encourage more village house developments, resulting in an extension of village development into the buffer area and jeopardizing the high landscape quality of the Pat Sin Leng hillside area ; and
- (iv) other government departments had no adverse comments on the review application;
- (g) three public comments on the review application and two public comments on its further information was received respectively during the statutory publication period. Apart from one supporting comment, the other commenters objected to the application on the grounds that the “GB” site should be preserved, the development would reduce the “GB” area and affect the traffic, environment and ecology in the surrounding area, and the approval of the application would set a precedent for other

similar applications resulting in cumulative impacts on the area;

- (h) there was no previous application for NTEH/Small House development at the Site. There were ten similar applications for Small House development within the same “GB” zone in the vicinity of the Site which were approved between 2002 and 2013 mainly on the grounds of compliance with the Interim Criteria;
- (i) the planning considerations and assessments were detailed in paragraph 7 of the Paper and the main points were:
 - (i) the Site fell almost entirely within “GB” zone (about 99%). The proposed development was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone; and
 - (ii) the Site was located on densely vegetated natural hillside with a natural stream course located to the immediate east of the site. Proposed development and associated site formation works would likely involve cutting and filling of slope, clearance of natural vegetation and felling of trees causing irreversible damages to the landscape resources and character of the surrounding area. There was no tree preservation or landscape proposal included in the review application to demonstrate that the vegetation loss could be adequately mitigated. CTP/UD&L of PlanD did not support the application;
 - (iii) the proposed Small Houses were located about 16m to 70m away from the planned sewerage system and would have to pass through private lots for making sewerage connection. The DEP did not support the application as he had concerns on the

potential water quality impact on the downstream Lung Mei beach. There was no information in the review application to demonstrate that the proposed development would have no adverse impact on the water quality of the surrounding area. Besides, House 1 was very close to the adjacent natural stream course and was not supported by CE/MN, DSD from public drainage viewpoint;

- (iv) based on the latest estimate by the PlanD, about 3.89 ha (or equivalent to about 155 Small House sites) of land were available within the “V” zone of concerned villages and could not fully meet the future Small House demand of about 7.6 ha (or equivalent to about 304 Small House sites). Although more than 50% of the proposed eight Small House footprints fell within the ‘VE’ and there was a general shortage of land in meeting the future Small House demand, the proposed developments did not meet the Interim Criteria in that the proposed developments would cause adverse landscape and sewerage impacts on the surrounding areas;
- (v) the proposed developments also did not comply with the TPB-PG No. 10 for development within “GB” zone in that the proposed developments and the associated site formation works would involve extensive clearance of existing natural vegetation and affect the existing natural landscape in the subject “GB” zone. Approval of the application would result in encroachment onto the surrounding natural hillsides/woodland area that have significant landscape value;
- (vi) for the ten similar applications, those sites were located on vacant flat land covered by grass and at a certain distance away from the natural hillsides and the edge of the existing woodland. Their impacts on the surrounding landscape would be minimal. As the subject site was located on the densely vegetated natural

hillside, the current application did not warrant the same considerations as those similar applications; and

(vii) there were public comments against the proposed development raising concerns on the potential adverse environmental, landscape, drainage, sewerage, geotechnical and ecological impacts on the surrounding areas.

(j) PlanD's views – PlanD did not support the review application based on the planning considerations and assessments as detailed in paragraph 7 of the Paper and for the reasons as stated in paragraph 8.1 of the Paper.

55. As the presentation from representative of PlanD had been completed, the Vice-chairman invited questions from Members.

56. As Members had no question to raise, the Vice-chairman thanked PlanD's representative for attending the meeting. She left the meeting at this point.

Deliberation Session

57. Noting that the Site fell within a "GB" zone and was adjacent to a natural stream course, a Member did not support the application as the proposed development was not in line with the planning intention of the "GB" zone and the applicants had not provided information to demonstrate that it would not cause adverse landscape and sewerage impacts on the surrounding areas. Other Members concurred.

58. A Member noted that there were ten similar applications approved by the Board to the west of the Site. Villagers might therefore wish to seek planning permission for similar Small House development nearby by clearing the surrounding vegetation. In order to avoid unnecessary vegetation clearance, this Member asked if a demarcation line could be drawn up to indicate to the villagers which part of the area would be allowed by the Board for Small House development. By referring to the photo at Plan R-4a of the Paper, Mr. K.K. Ling, Director of Planning, pointed out that the sites involved in the ten approved applications were all located on flat land covered by grass whereas the subject

Site was located on densely vegetated natural hillside. Hence, the current application did not warrant the same considerations as those similar applications. He said that the Board would consider each application based on its individual merits and it would be difficult to demarcate a line on the OZP.

59. 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 “Green Belt” zoning for the area which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
- (b) the proposed development did not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance’ in that the proposed development would involve extensive clearance of existing natural vegetation and affect the existing natural landscape on the surrounding environment; and
- (c) the proposed development did not comply with the interim criteria for consideration of application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape and sewerage impacts on the surrounding areas.

Agenda Item 6

[Open Meeting]

Request for Deferral for Review of Application No. A/YL-PS/377

Proposed Concrete Batching Plant and Minor Relaxation of Building Height Restriction in “Industrial (Group D)” zone, Lots 843 S.A, 843 S.B and 843 RP in D.D. 124 and Lots 233 RP, 235 and 236 in D.D.127, Ping Shan, Yuen Long

(TPB Paper No. 9397)

[The meeting was conducted in Cantonese.]

60. The Secretary reported that this was the applicant’s second request for deferment. Upon the Board’s decision to defer a decision on the review application on 14.12.2012, the applicant submitted further information on 8.2.2013, 12.3.2013 and 15.5.2013, including Traffic Impact Assessment and Environmental Assessment, in support of the review application. On 17.7.2013, the applicant wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application for 2 months so as to allow time for him to prepare responses to comments of concerned government departments. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

61. After deliberation, the Board decided to agree to defer a decision on the review application and the review application would be submitted to the Board for consideration within 3 months upon receipt of the further submission from the applicant. The Board also decided to advise the applicant that the Board had allowed a further 2 months for preparation of submission of further information. Since this was the second deferment and the Board had allowed a total of 4 months including the previous deferment for preparation of submission of further information, no further deferment would be granted unless under very special circumstances.

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K18/297

Proposed Hotel Development, Minor Relaxation of the Plot Ratio Restriction from 0.6 to 0.68 (based on “R(C)1”) zone, and Minor Relaxation of the Building Height Restriction to Allow for One Storey of Basement for Two Car Parking Spaces, One Loading/Unloading Bay and Ancillary Plant Room Use in “Residential (Group C) 1” zone and an area shown as ‘Road’, 147 Waterloo Road and Adjoining Government Land, Kowloon Tong

(TPB Paper No. 9421)

[The meeting was conducted in Cantonese.]

62. Ms. Julia M.K. Lau had declared an interest on the item as her family member lived in Kowloon Tong. As her interest was direct, Members agreed that Ms. Lau should leave the meeting temporarily.

[Ms. Julia M.K. Lau left the meeting temporarily at this point.]

63. The following government representatives and the applicant’s representatives were invited to the meeting at this point:

Ms. Fiona Lung	-	District Planning Officer/Kowloon (DPO/K), Planning Department (PlanD)
Ms. S.H. Lam	-	Senior Town Planner/Kowloon, PlanD
Mr. Samson Chu)	
Mr. Benedict Lu)	Applicant’s representatives
Ms. Frankist Chan)	

64. The Vice-chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/K to brief Members on the review application.

65. With the aid of a Powerpoint presentation, Ms. Fiona Lung, DPO/K, presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for proposed hotel development, minor relaxation of the plot ratio (PR) restriction from 0.6 to 0.68 (based on “Residential (Group C)1” (“R(C)1”) zone), and minor relaxation of the building height restriction to allow for one storey of basement for two car parking spaces, one loading/unloading bay and ancillary plant room at the application site under s.16 of the Town Planning Ordinance (the Ordinance);
- (b) the application site was zoned “R(C)1” (about 835.095m²) and ‘Road’ (107.875m²) on the Approved Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/16 at the time of submission and subject to a maximum PR restriction of 0.6 and a maximum building height restriction of 3 storeys, or the PR and height of the existing building, whichever is the greater;
- (c) the application site was located near the junction of Somerset Road and Waterloo Road in close proximity to the Kowloon Tong MTR Station. It was located within the Kowloon Tong Garden Estate (KTGE) which was a low-rise, low-density residential area. It was currently occupied by a 2-storey vacant building which was previously used as a studio for taking wedding photos. There were three existing trees within the site. Residential uses and some non-residential uses were located in the vicinity including schools, hotels and military camp;
- (d) the major development parameters of the proposed hotel development were as follows:

Development Parameters	Proposed Scheme
Application Site Area	Total: 942.97m ² (Private lot: 822.97m ²)
Gross Floor Area (GFA)	565.78m ² (excluding basement area of 317m ² and back of house area of 8.22m ²)
Plot Ratio [#]	0.6 (0.68 on “R(C)1” zone)
Site Coverage [#]	21% (24% on “R(C)1” zone)

Development Parameters	Proposed Scheme
Building Height	13.51m (including basement) 35.525mPD (at the main roof) Up to 37mPD at top of wall of the swimming pool
No. of Storeys	3+1 basement (for parking and plant rooms)
No. of Guestrooms (Average room size)	45 (7.5m ²)
No. of Car Parking Spaces	2
No. of Loading/Unloading Bay	2 (1 for light goods vehicles at basement and 1 for light bus at G/F)

The plot ratio and site coverage based on the private lot with an area of 822.97m² are 0.69 and 24% respectively.

- (e) the Metro Planning Committee (the MPC) rejected the application on 5.4.2013 for the following reasons:
- (i) the application site fell within and formed an integral part of the KTGE, which was intended primarily for low-rise, low-density residential developments. The proposed hotel development was not in line with the planning intention of the KTGE and was considered not compatible with surrounding uses in the area;
 - (ii) there was no planning or design merit to justify the proposed minor relaxation of building height restriction;
 - (iii) the proposed design of the car park and driveway was not acceptable from traffic engineering point of view; and
 - (iv) the approval of the proposed hotel development would set an undesirable precedent for other similar applications for non-residential uses in the area leading to the intrusion of commercial uses into the low-density residential neighbourhood and further degradation of the residential neighbourhood, the cumulative effect of which would affect the integration of the KTGE.;

- (f) the applicant applied for a review and put forth the following justifications as detailed in paragraph 3 of the Paper and summarised as follows:
- (i) the application site was used for an elderly home for 11 years and photo studio for many years (now relocated). The site opposite to the application site was used for non-residential uses for years and its 1/F was approved in May for use as a computer education centre. Areas along Waterloo Road were actually more suitable for commercial uses than residential use;
 - (ii) it was not fair that numerous applications by legal means for commercial uses on the application site were all rejected by the Board, while there existed other commercial uses on other sites without properly going through planning application;
 - (iii) the site was located close to the high-tech business zone including universities, hospitals and schools. There was demand for 'legitimate' and 'convenient' short-term accommodation, rather than the low-end motels, for the overseas or other respectable visitors;
 - (iv) located near the Kowloon Tong MTR Station, it was believed that most residents would rely on MTR rather than other means of transport, and would not cause serious traffic congestion in the area;
 - (v) of the two public comments objecting to the application, one was not living nearby. The other commenter, Designing Hong Kong Limited, always rejected or provided counterproposal to public matters; and
 - (vi) disapproval by the Board on the planning application would discourage the proper planning procedure and encourage owners

to unlawfully use their property as commercial premises without properly going through planning application procedure;

- (g) departmental comments - comments of government departments were detailed in paragraph 5 of the Paper. The main comments were:
- (i) Commissioner for Transport (C for T) did not support the s.16 application for the reason that the proposed lay-by and swept path of single deck tour bus encroached onto the up ramp of the basement, which were undesirable from traffic point of view. In the review application, C for T had no in-principle objection if the applicant reduced the dimension of bus lay-by to 8m x 3m with minimum headroom of 3.3m;
 - (ii) the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD) advised that if the planning application was approved by the Board, the owner of the Lot would need to apply for a lease modification to effect the proposal;
 - (iii) the Commissioner for Tourism (C for Tourism) supported the application as the proposed development would increase the number of hotel rooms, broaden the range of accommodations for visitors, and support the rapid development of convention and exhibitions, tourism and hotel industries;
 - (iv) Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) had strong reservation on the application. The applicant proposed to fell three existing trees but no tree compensatory proposal and landscape proposal was included in the submission. Only a small portion of the ground floor was proposed as a garden. There was no merit from the landscape planning perspective; and
 - (v) other government departments had no adverse comments on the

review application;

- (h) 13 public comments on the review application were received during the statutory publication period. They objected the application mainly for the reasons that there were no need for more hotels in the area, inadequate justification for relaxation of the building height restriction, possible adverse traffic and visual impacts, tranquility and security issues, and impact on supporting traffic, recreational and community facilities;
- (i) the planning considerations and assessments were detailed in paragraph 7 of the Paper and the main points were:

Planning Intention and Land Use Compatibility

- (i) the planning intention of the “R(C)1” zone was for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood might be permitted on application to the Board. The site was located within the KTGE, which was intended primarily for low-rise, low density residential development. The preservation of the KTGE would not only make an important contribution to the townscape of Kowloon Tong, but also to a wider area by providing a variety in urban forms, environment and housing types. The proposed hotel development was considered not in line with the planning intention of the “R(C)1” zoning;
- (ii) in terms of land use compatibility, there were residential uses, schools, hotels and religious institutions in the vicinity of the site. No applications for hotel development in the KTGE had however been approved before. Given the importance of maintaining the character and integrity of the KTGE, there was no strong planning justification for the proposed hotel development;

Proposed Relaxation of Plot Ratio Restriction

- (iii) the application for minor relaxation of the maximum PR restriction from 0.6 to 0.68 for “R(C)1” zone was to accommodate the additional PR of the strip of land shown as ‘Road’ previously resumed by the Government for public footpath. As the proposal was in line with the existing practice that private land proposed for surrender or dedication for public use could be included in the site area for PR calculation, there was no planning objection to the proposed minor relaxation of PR;

Proposed Relaxation of Building Height Restriction

- (iv) the applicant had not submitted any responses to address MPC’s concern that there was no planning or design merit to justify the proposed minor relaxation of building height restriction. As stated in the Explanatory Statement (ES) of the OZP, the purpose of allowing application for minor relaxation of building height restriction for provision of one storey of basement car park and/or ancillary plant room was to allow design flexibility for development with special design merits. The construction of the basement should however not cause any adverse impacts on the existing trees or deteriorate the distinctiveness of the area as a garden estate;
- (v) CTP/UD&L, PlanD maintained his strong reservation on the proposal as there was no merit from the landscape planning perspective. Most of the ground floor area would be used for vehicle circulation, leaving only a small portion proposed as garden. Moreover, all the three existing trees were proposed to be felled by the applicant and no tree compensatory and landscape proposal had been included in the submission. In

this regard, the current proposal could not satisfy the criterion that there should be no adverse impacts on the existing trees;

- (vi) the applicant had not submitted any proposal to improve the landscape design in particular the preservation of trees and had not demonstrated any special design merit in the current submission that warranted favourable consideration for a minor relaxation of building height restriction. PlanD maintained strong reservation on the proposed increase in building height;

Basement Car Park Design

- (vii) C for T had no in-principle objection to the application if the applicant could reduce the dimension of bus lay-by from the previously proposed 12m x 3m to 8m x 3m with minimum headroom of 3.3m;
- (viii) Buildings Department (BD) advised that any excessive space including ramp and driveway, etc. should be included in GFA calculation, for which detailed comments would be provided during building plan submission stage;

Undesirable Precedent

- (ix) there was no previous planning permission granted for hotel development in Kowloon Tong. The approval of the application would set an undesirable precedent for other similar hotel applications, the cumulative impacts of which would adversely affect the existing character of the area and affect the integrity of the KTGE;
- (x) no applications for hotel, shop and services had ever been approved within the KTGE by the Board. Some of the hotels, shops and schools currently in the KTGE might be in existence

before gazetting of the first Kowloon Tong OZP; and

- (j) PlanD's views – PlanD did not support the review application based on the planning considerations and assessments as detailed in paragraph 7 of the Paper and for the reasons as stated in paragraph 8.1 of the Paper.

66. The Vice-chairman then invited the applicant's representatives to elaborate on the review application. Members noted that a document was tabled by the applicant at the meeting.

67. Mr. Benedict Lu made the following main points:

- (a) with a total of 22 million tourists in 2011, Hong Kong ranked the 13th place in the global tourist ranking;
- (b) there were a total of 6,705 hotel/guesthouse rooms in Kowloon City but only 242 rooms were provided in the KTGE which were mainly in motels/small hotels. Within the 300m radius of the Kowloon Tong MTR Station, there were only 82 motel rooms. These motels had not obtained planning permission from the Board. There was no formal hotel in the area;
- (c) the proposed hotel was a high tariff B hotel (boutique hotel). Under the free market concept and by competition, the development of a formal hotel in the KTGE area could increase quality and services of the existing motels and guesthouses in the area;
- (d) there were six approved planning applications for hotel development in similar "R(C)" zone on the Lantau Island;
- (e) there was high occupancy rate (about 85% to 90%) for hotels in other Kowloon area;

- (f) the proposed hotel would serve visiting students and professors of the Baptist University and the City University, visitors to the nearby international schools, medical tourists (i.e. for cosmetic and eye surgery) and those overseas relatives visiting the residence nearby;
- (g) unlike kindergarten and school users generating vehicular traffic at certain hours and days, vehicular traffic generated by hotel guests scattered in different times of a day and therefore would not generate adverse impact on vehicular traffic in the area;
- (h) hotels were mostly occupied during night time and was similar to the function of a residential use, instead of a commercial use. As compared to a small hotel, schools and shops nearby would create more pedestrian and vehicular traffic;
- (i) the application site was located in a low-density residential area facing the six-lane Waterloo Road of heavy traffic which would generate significant noise and dust pollution. The proposed hotel with fixed windows would be a more appropriate use for the site and acted as a buffer from the road; and
- (j) instead of having pure residential use, the proposed hotel development could enhance the neighbourhood mixed use planning concept in the KTGE area. Besides, the hotel development was within 5 to 10 minutes walking distance from the MTR station.

68. Mr. Samson Chu made the following main points:

- (a) the proposed relaxation of building height restriction was due to the need to provide a basement car park to meet TD's requirement on the provision of car parking spaces and loading/unloading bays serving the hotel. The area for the basement car park was not required to be included in the GFA calculation;

- (b) to address departmental concern, a tree compensation proposal would be provided for the proposed felling of the three existing trees;
- (c) it should be noted that 'Hotel' use was a column 2 use of the "R(C)1" zone and the applicant was allowed to make planning application which might be permitted by the Board. Given that the applicant had already addressed the concerns of relevant government departments, it was unfair for the Board to reject the application based on the ground that there was no previous planning permission for hotel development in the KTGE area; and
- (d) the property agent of the applicant had gathered many emails from visiting students which showed that there was a strong demand for hotel rooms in the area.

69. Ms. Frankist Chan made the following main points:

- (a) she was a property agent in Kowloon Tong for many years. In terms of location, the site was considered suitable for hotel use. It was in close proximity to various universities and commercial uses and there was all along a strong demand for hotel rooms in the area;
- (b) there was currently no formal hotel in the area. The Board should consider permitting those sites which were not suitable for residential use and were occupied by commercial uses for many years to be developed for hotel use. Development without proper planning approval might have adverse impact on the area; and
- (c) the Board should consider each application based on its individual merits. The reason that there was no precedent approved application for hotel development in the area should not be used to reject the current application. The site had been used for commercial use for about 30 years and the applicant wished to ensure that the proposed hotel use

would comply with the law.

70. As the presentations were completed, the Vice-chairman invited questions from Members.

Tree Compensation Proposal

71. The Vice-chairman and Members had the following questions on the tree compensation proposal:

- (a) noting that three existing trees was proposed to be felled at the site and CTP/U&L's comment that no tree compensation proposal was included the applicant's submission, the applicant should clarify whether he had submitted any tree compensation proposal in support of the review application?
- (b) what was the reason for the proposed tree felling at the site and was there any design merit to justify such proposal?

72. Mr. Samson Chu clarified that no tree compensation proposal had been included in the applicant's submission in support of the review application. The applicant could submit the tree compensation proposal to the Board, if the application could be approved. He said that due to the small size of the site, a basement car park was required to meet TD's requirement on the provision of car parking spaces and loading/unloading bays. As Waterloo Road was a busy road, a run-in/run-out for the proposed hotel could only be provided along Somerset Road. The existing trees fell within the proposed car ramp area and there was a need to remove them. He said that a tree compensation proposal would be provided to the satisfaction of the Director of Planning and the Board.

Proposed Hotel Development

73. Members had the following questions on the proposed hotel development:

- (a) why the applicant considered that hotel use was necessary within the KTGE which was intended primarily for low-rise and low-density residential development?
- (b) whether there was any information to substantiate the hotel demand as claimed by the applicant?
- (c) noting that the hotel room size was very small (7.5m²), what kind of hotel was planned for the site and what would be its target users?

74. On question (a) and (b), Mr. Samson Chu said that there was a strong demand for hotel accommodation within the Kowloon Tong area (not just the KTGE) as the area was in close proximity to universities, hospital and a number of tourism spots (e.g. the Festival Walk). The proposed hotel could provide accommodation to visiting students/professors, medical tourists and other visitors in the area. Ms. Frankist Chan supplemented that the site, which was located next to a MTR station, was very convenient. Since there was currently no formal and quality hotel accommodation in the area, there was a strong demand for hotel use at the site. It was also the intention of the developer to develop the site for hotel use.

75. On question (c), Mr. Samson Chu said that the proposed hotel was a boutique hotel. Although the scale of development was small, the applicant would ensure that the hotel would be well-equipped with adequate supporting facilities such as swimming pool. Besides, gymnastic facilities might also be considered at a later stage.

Hotels/Guesthouses without Planning Permission

76. A Member asked for more information on the nearby hotels/guesthouses without planning permission and whether any enforcement action would be undertaken against them. In response, Ms. Fiona Lung, DPO/K, said that there were 14 existing hotels/guesthouses within the KTGE area which had not obtained planning permission. Nevertheless, some of those hotels/guesthouses might already be in existence before gazetting of the first Kowloon Tong OZP and hence would be considered as existing uses under the OZP. According to the OZP, no action was required to make the existing use of

any land or building conform to the OZP until there was a material change of use or the building was redeveloped. For other uses which did not conform to the OZP and without planning permission, she said that under the Town Planning Ordinance, the Board had no power to undertake enforcement action against them. Enforcement actions could be undertaken by concerned government departments (i.e. Lands Department and Buildings Department) if the development did not comply with the lease conditions and/or Buildings Ordinance.

Proposed Relaxation of Building Height Restriction

77. In response to the question on the justification for the proposed relaxation of building height restriction raised by the Vice-chairman and a Member, Mr. Samson Chu said that the proposed hotel had three storeys above ground and the proposed minor relaxation of the building height restriction was to allow for one storey of basement to accommodate the car parks and loading/unloading bays in order to meet TD's requirement.

78. As the applicant's representatives had no further comment to make and Members had no further questions, the Vice-chairman informed the applicant's representatives that the hearing procedures for the review application had been completed. The Board would inform the applicant of the Board's decision in due course. The Vice-chairman thanked the applicant's representatives and representatives of the PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

Planning Intention of the "R(C)1" Zone

79. Noting that 'Hotel' use was a Column 2 use which might be permitted upon planning application to the Board, a Member wondered whether non-compliance with the planning intention of the "R(C)1" zone was an appropriate reason for rejecting the hotel application. The Secretary said that in considering a planning application for a Column 2 use, the Board should focus on whether there was any strong planning justification for such use to deviate from the planning intention, rather than simply considering whether the use complied with the planning intention of the zone.

80. The Secretary said that ‘Hotel’ use was included as a Column 2 use in all “R(C)” zones on the Kowloon Tong OZP, not just the “R(C)1” zone covering the KTGE area. Hence, even if the subject site was considered not appropriate for hotel use, it should not preclude the suitability of other sites in Kowloon Tong for hotel development. As a matter of fact, there were approved planning applications for hotel development in other parts of the Kowloon Tong area. For the subject application, as presented by DPO/K, in terms of land use compatibility, there were residential uses, schools, hotels and religious institutions in the vicinity of the site. However, Members should also take into consideration that no application for hotel development in the KTGE had been approved before and whether the approval of the application would set an undesirable precedent for other similar hotel applications in KTGE.

81. The Vice-chairman said that although a Column 2 use might be permitted upon planning application to the Board, the applicant should not take it for granted that the Board would approve the application. Taking into account site-specific or area-specific circumstances, the Board could reject the application on the ground that it did not comply with the planning intention of the zone and there was no justification for deviating from the planning intention.

82. Noting that there were existing non-residential uses and a strong demand for commercial uses in the KTGE, a Member asked whether there was a need to review the planning intention of the KTGE area which was primarily for low-rise and low-density residential development. The Vice-chairman said and other Members concurred that it would involve an overall review of the whole KTGE area which was outside the consideration of the subject application.

Proposed Relaxation of Building Height Restriction

83. As a background information, the Secretary said that the minor relaxation clause for the building height restriction for the provision of one storey of basement car park and/or ancillary plant room was incorporated into the “R(C)1” zone of the subject OZP some ten years ago. As stated in the ES of the OZP, the intention was to allow design flexibility for development with special design merits/planning gains and the

construction of the basement should not cause any adverse impacts to the existing trees or deteriorate the distinctiveness of the area as a garden estate. However, according to PlanD, the current application could not satisfy the criterion for minor relaxation of building height restriction as stated in the ES in that the existing trees would be felled and the applicant had not submitted any tree compensation proposal or proposal to improve the landscape design. Hence, there was no design merit/planning gains that warranted favourable consideration for a minor relaxation of building height restriction. Members concurred.

Housing Demand

84. Noting that the MPC had recently rejected a number of hotel applications in residential zones for the reason of pressing housing need and acute shortage of housing land, a Member asked if this should also be adopted as a reason for rejecting the current application. The Secretary said that in view of the current shortfall in housing supply and that proposed hotel development at residential zones would result in reduction of sites for residential development, PlanD, following a thorough discussion at MPC, had recently adopted a consistent approach in making its recommendation to the Board that applications for hotel development in residential zones (in particular within “R(A)” zones) would not be supported, if there was insufficient justification for it to deviate from the planning intention of the residential zones. Sympathetic consideration would only be given if the application site was conducive for hotel developments or hotel development thereon would serve special planning objectives e.g. acting as a buffer to resolve the residential/industrial interface problem. For the current application, as such rejection reason was not included at the s.16 application stage, it might not be appropriate to include an additional reason at the s.17 review stage. Members concurred.

Proposed Hotel Development

85. A Member did not support the application and considered that the applicant had not provided justification on why a hotel use was necessary to be provided in the KTGE which was intended primarily for low-rise and low-density residential developments. This Member considered that some commercial uses, such as shops, might support the residential use. However, the proposed hotel development was not a

local facility that served the population within the KTGE area and it was not in line with the planning intention of the KTGE area.

86. Another Member also did not support the application and said that the applicant had not provided any strong justification for the proposed hotel development and some information provided by the applicant was inaccurate. The applicant stated that there was a need for hotel accommodation for visiting students and professors of the nearby two universities but neglected the fact that there were already existing accommodations/hostels within these two universities for visiting and overseas students/professors. Besides, the proposed hotel room of only 7.5m² was also too small for providing quality hotel accommodations as claimed by the applicant.

Public Comments

87. By referring to the document tabled by the applicant at the meeting, a Member said that the applicant's claim that the Government allowed the commercial uses in the area without planning permission was unfounded. This Member also said that the applicant had not provided any justification for his disagreement with the two public objections.

88. The Vice-chairman summarised Members' views that the application should not be supported as there was no design merits nor planning gains to justify the proposed relaxation of the building height restriction and the applicant had not provided any tree compensation proposal for the proposed tree felling. There was also no strong justification provided by the applicant for the proposed hotel development which was not in line with the planning intention of the KTGE. Members also agreed that the previous rejection reason in relation to the proposed design of the car park and driveway should be deleted as C for T had no objection to the application if the applicant could reduce the dimension of bus lay-by.

[Ms. Anita W.T. Ma left the meeting at this point.]

89. 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 should be suitably amended to reflect Members' views as expressed at the meeting. The reasons were:

- (a) the application site fell within and formed an integral part of the KTGE, which was intended primarily for low-rise, low-density residential developments. The proposed hotel development was not in line with the planning intention of the KTGE and there was no strong justification to deviate from the planning intention;
- (b) there was no planning or design merit to justify the proposed minor relaxation of building height restriction; and
- (c) the approval of the proposed hotel development would set an undesirable precedent for other similar applications for non-residential uses in the area leading to the intrusion of commercial uses into the low-density residential neighbourhood and further degradation of the residential neighbourhood, the cumulative effect of which would affect the integration of the KTGE.

[Ms. Julia M.K. Lau returned to join the meeting at this point.]

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and
Comments to the Draft Peng Chau Outline Zoning Plan No. S/I-PC/11

(TPB Paper No. 9406)

[The meeting was conducted in Cantonese.]

90. The Secretary introduced the Paper. On 22.3.2013, the draft Peng Chau Outline Zoning Plan No. S/I-PC/11 (the Plan) incorporating amendments mainly to rezone the northern portion of the former Peng Chau Chi Yan Public School site (the Site) from "Government, Institution or Community" ("G/IC") to "Residential (Group C)4" ("R(C)4") for private residential development was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 57 representations and 2 comments were

received. Since the representations and comments were all related to a sale site and attracted wide interest/concern of the locals as well as the general public and the grounds of representations were similar and closely related, it was recommended that the representations and comments be considered collectively in one group by the full Board.

91. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations as detailed in paragraph 2 of the Paper.

Agenda Item 9

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations to the Draft Shouson Hill and Repulse Bay Outline Zoning Plan No. S/H17/12

(TPB Paper No. 9422)

[The meeting was conducted in Cantonese.]

92. The Secretary introduced the Paper. On 22.3.2013, the draft Shouson Hill & Repulse Bay Outline Zoning Plan (OZP) No. S/H17/12 (the Plan) incorporated amendment related to the rezoning of a site from “Government, Institution or Community” (“G/IC”) to “Residential (Group C)3” (“R(C)3”) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 210 representations and no comment were received. Since the amendment had attracted wide public interest and the representations were all related to the rezoning of the same site and some of them were on similar objection grounds, it was recommended that the representations be considered collectively in one group by the full Board.

93. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations as detailed in paragraph 2 of the Paper.

Agenda Item 10

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

94. There being no other business, the meeting closed at 12:15 p.m.