

**Minutes of the 1067th Meeting of the
Town Planning Board held on 19.9.2014**

Present

Permanent Secretary for Development
(Planning and Lands)

Chairman

Mr Thomas T.M. Chow

Mr Stanley Y.F. Wong

Vice-chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Laurence L.J. Li

Dr W.K. Yau

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Ms Christina M. Lee

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr F.C. Chan

Dr Eugene K.K. Chan

Mr Francis T.K. Ip

Mr David Y.T. Lui

Mr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Deputy Director of Environmental Protection
Mr C.W. Tse

Deputy Director of Lands
Mr Jeff Y.T. Lam

Chief Engineer (Works), Home Affairs Department
Mr Frankie W.P. Chou

Miss Winnie M.W. Wong
Principal Assistant Secretary (Transport)
Transport and Housing Bureau

Director of Planning
Mr K.K. Ling

Deputy Director of Planning/District
Mr Raymond K.W. Lee

Secretary

Absent with Apologies

Mr Clarence W.C. Leung

Ms Anita W.T. Ma

Ms Bonnie J.Y. Chan

Professor K.C. Chau

Mr Patrick H.T. Lau

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Ms Lily Y.M. Yam (a.m.)

Mr Louis K.H. Kau (p.m.)

Senior Town Planner/Town Planning Board

Mr T.C. Cheng (a.m.)

Mr Stephen K.S. Lee (p.m.)

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 1066th Meeting held on 5.9.2014

[The meeting was conducted in Cantonese.]

1. The minutes of the 1066th meeting held on 5.9.2014 were confirmed without amendments.

Agenda Item 2

[Open meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

2. The Secretary reported that on 2.9.2014, the Chief Executive in Council approved the Sha Tin Outline Zoning Plan (OZP) (to be renumbered as S/ST/30) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance). The approval of the Sha Tin OZP was notified in the Gazette on 5.9.2014.

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

Sha Tin, Tai Po & North District

Agenda Item 3

[Open meeting (Presentation and Question Sessions only)]

Consideration of Further Representations on Proposed Amendments to the Draft Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/1 Arising from Consideration of Representations and Comment on Ta Kwu Ling North OZP No. S/NE-TKLN/1 (TPB Paper No. 9730)

[The hearing was conducted in Cantonese]

Presentation and Question Sessions

3. The following representatives from the Planning Department (PlanD), further representers, original representers and their representatives were invited to the meeting.

Mr C.K. Soh - District Planning Officer/Shan Tin, Tai Po & North (DPO/STN), PlanD

Mr Wallace W.K. Tang - Senior Town Planner/North, Shan Tin, Tai Po & North District Planning Office (STP/N, STN DPO), PlanD

F1 & R4 – Designing Hong Kong Limited

Ms Debby Chan - Further representer and representer's representative

F3 – Ta Kwu Ling District Rural Committee

Mr Lam Kam Kwai - Further representer's representative

F4 – 萬秀平，萬新財

萬新財先生 - Further representer

F5 – Win Team International Investment Limited

Mr Lam Chor Kat) Further representer's

Mr Fan Siu Yang) representatives

F6 – Wai Siu Kan

- Mr Wai Siu Kan - Further representer
Mr Ngan Siu Lun - Further representer's representative

F23 – Thomas Tsang Surveyors Limited

- Mr Thomas K.K. Tsang)
Mr Lam Tsz Kwai) Further representer's
Mr Man Kam Wah) representatives
Mr Yu Chau Ming)

R2 – World Wide Fund for Nature Hong

Kong (WWF)

- Mr Andrew Chan) Representer's representatives
Mr Tobi Lau)

R3 – Kadoorie Farm & Botanic Garden

Corporation (KFBG)

- Ms Woo Ming Chuen - Representer's representative

4. The Chairman extended a welcome and said that sufficient notice had been given to invite all further representers and concerned original representers and commenters to attend the hearing, but other than those who were present or indicated that they would attend the meeting, the rest had either indicated not to attend the hearing or made no reply. As reasonable notice had been given to the further representers, representers and commenters, Members agreed to proceed with the hearing in their absence. The Chairman then explained the procedures of the hearing and invited DPO/STN to brief Members on the further representations.

5. With the aid of a Powerpoint presentation, Mr Wallace W.K. Tang, STP/N, made the following main points as detailed in the Paper :

Background

- (a) on 19.7.2013, the draft Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of four valid representations and one comment were received;
- (b) the Board decided on 28.2.2014 to meet two representations submitted by WWF and KFBG by amending the zoning of Heung Yuen Wai (HYW) Stream and its 20m riparian area and the Notes for “Recreation” (“REC”) zone of the OZP to clearly reflect the planning intention for low-density recreational developments. Members also agreed to request PlanD to work out the appropriate zoning for HYW Stream and its 20m riparian zone in consultation with the Agriculture, Fisheries and Conservation Department (AFCD);
- (c) on 16.5.2014, the proposed amendments to the draft Ta Kwu Ling North OZP No. S/NE-TKLN/1 were considered and agreed by the Board. On 13.6.2014, the proposed amendments to the draft Ta Kwu Ling North OZP were published under section 6C(2) of the Ordinance for three weeks for further representation;
- (d) the proposed amendments included :
 - (i) Item A – rezoning the section of HYW Stream and its riparian area to the north of Ha Heung Yuen (HHY) and to the east and northeast of HYW from “REC” to “Green Belt” (“GB”);
 - (ii) Item B – rezoning the section of HYW Stream and its riparian area to the north of HHY and HYW from “Agriculture” (“AGR”) to “GB”;

- (iii) Item C – rezoning three pieces of land to the north of HHY and HYW from “Village Type Development” (“V”) to “GB”;
- (iv) Item D – rezoning of a piece of land to the west of HHY from “AGR” to “V”; and
- (v) revision to the planning intention of the Notes for the “REC” zone to indicate that its planning intention was for low-density recreational developments;

The Further Representations

- (e) upon the expiry of the three-week publication period which ended on 4.7.2014, 23 valid further representations (F1 to F23) were received. They were submitted by Designing Hong Kong Limited, the Hong Kong Bird Watching Society, Ta Kwu Ling District Rural Committee, representatives of Ta Kwu Ling HYW Indigenous Inhabitants, Win Team International Investment Limited, Thomas Tsang Surveyors Limited and individuals/local villagers;

Supportive Views

- (f) F1 (part) and F2 (part) supported Amendment Items A to C to rezone various sections of HYW Stream and its riparian areas from “REC”, “AGR” and “V” to “GB” on the ground that it could protect areas of high ecological value of HYW Stream. F2 (part) considered that the “GB” zone would not be sufficient to protect the stream in the long-run;

Objecting Views

- (g) F1 (part) and F2 (part) raised concern about the “V” zoning of the tributary of HYW Stream between HYW and HHY and considered that the future Small House developments in the vicinity of this section of HYW Stream within the “V” zone would increase the

pollutant discharge and would affect the ecological resources of the downstream section. They proposed to designate this tributary and its riparian area to conservation zonings such as “Conservation Area” (“CA”), “GB” or “GB(1)”. They also objected to Amendment Item D to rezone a piece of land to the west of HHY from “AGR” to “V” and proposed to retain the original “AGR” zoning as Small House application could still be submitted for the Board’s consideration;

[Mr Francis T.K. Ip arrived to join the meeting at this point.]

- (h) F3 to F22 objected to Amendment Item A to rezone the various sections of HYW Stream and its riparian area from “REC” to “GB” and proposed to withdraw this amendment item mainly on the grounds that :
 - (i) the “REC” zone had been agreed and recognised by the villagers;
 - (ii) the hilly area at the backdrop could already serve as a green buffer; and
 - (iii) the zoning amendment would restrict the future use of the concerned land parcels;

- (i) F23 objected to Amendment Items A to C to rezone various sections of HYW Stream and its riparian area from “REC”, “AGR” and “V” to “GB” mainly on the grounds that :
 - (i) the amendments contravened the recommendations of the Land Use Planning for the Closed Area – Feasibility Study (the FCA Study) to make good use of the land to be released from the Closed Area taking into account its geographical location and natural and cultural heritage for some form of

development; and

- (ii) the amendments involved a large amount of private lots and would affect the rural development of Ta Kwu Ling North area in a sustainable and orderly manner;

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

Responses to Grounds of Further Representations

HYW Stream and its 20m Riparian Area

- (j) The supportive views of F1 (part) and F2 (part) were noted. In considering the representations on 28.2.2014, Members generally considered that sufficient protection should be given to the HYW Stream and its riparian area which had been assessed to have high ecological value under the FCA Study completed in 2010;
- (k) Having taken into account the ecological/habitat conditions of the HYW Stream and in consultation with AFCD, the zoning amendments were submitted to the Board for consideration on 16.5.2014. For the HYW Stream section which was natural and with little human disturbance, the stream and its 20m riparian area were proposed to be rezoned to “GB” to provide the required protection. For the stream section running through the “V” zones of HYW, HHY and Tsung Yuen Ha, no amendment to the land use zoning of the Stream and its riparian area was proposed as planning permission for diversion of stream was required from the Board. There were existing administrative mechanisms to ensure that any potential adverse impacts on the natural stream course would be properly addressed;
- (l) In considering the appropriate zoning for the HYW Stream and its riparian area, all relevant factors, such as the existing land use zoning

of the Stream, the surrounding land uses and the planning intention of the areas, DAFC's expert views, and the existing condition of the HYW Stream sections had been taken into account;

- (m) The designation of "GB" zone could provide a buffer to protect the water quality and ecosystem of the Stream and at the same time, allow flexibility for suitable development to meet community need for Small House development subject to scrutiny of the Board under the planning permission system;
- (n) Both "GB" and "CA" were conservation zonings with a general presumption against development. Any diversion of stream would require planning permission from the Board. On the other hand, some form of recreational uses such as eco-tourism would still be feasible;
- (o) Regarding F3 to F22, according to the findings of the FCA Study, the undisturbed upper section of HYW Stream had high ecological value in view of its rich fish community and odonate diversity. There was a need to protect the upper section of the HYW Stream and a 20m wide buffer area along the stream;
- (p) the zoning amendment had taken into account, inter alia, the ecological value of the HYW Stream sections as identified in the FCA Study as well as DAFC's expert views on the ecological/habitat conditions of the Stream. The needs for conservation and development had been balanced;

[Dr Wilton W.T. Fok and Mr H.F. Leung arrived to join the meeting at this point.]

- (q) with regard to F23, as a result of the Amendment Items A to C, the OZP prepared for Ta Kwu Ling North area still generally followed the recommendations of the FCA Study. There were still 99.8 ha of land

zoned “REC” in the Ta Kwu Ling North area for low-density recreational developments. Land ownership issue was not a material planning consideration of the Board in drawing up the land use zoning as it would be subject to change under prevailing market condition;

The Tributary between HYW and HHY

- (r) according to DAFC, the tributary was rather narrow and mainly bordered by abandoned agricultural land overgrown by grass. According to the Schedule of Uses for the “V” zone, any diversion of stream required planning permission from the Board. As such, DAFC considered that designating this section of the Stream and its riparian area as “V” was appropriate and no amendment to its land use zoning was required. The sewage disposal and site formation works of Small Houses would be considered by the relevant departments during the processing of the Small House applications by the Lands Department (LandsD);

[Professor Eddie C.M. Hui returned to join the meeting at this point.]

- (s) according to Practice Note for Professional Persons No. 5/93 (ProPECC PN 5/93), the design of small sewage treatment plants should in general meet the requirements given in the ‘Guidelines for the Design of Small Sewage Treatment Plants’ published by the Environmental Protection Department (EPD). A septic tank and soakaway design should also meet the requirements as stipulated in the ProPECC;
- (t) according to the Environment, Transport and Works Bureau’s Technical Circular (Works) No. 5/2005, DAFC would be consulted on development proposals that might affect natural streams/rivers. Hence, there were existing administrative mechanisms to ensure that any potential adverse impact on the natural streams would be properly addressed;

- (u) there were existing sewerage in the villages of HYW and HHY. With respect to the middle section of the tributary, DAFC considered that the existing “AGR” zoning was appropriate as it was a non-development zone. Any diversion of stream within the “AGR” zone would require planning permission from the Board;

“V” Zone in respect of Amendment Item D

- (v) the boundaries of the “V” zones were drawn up taking into account the village ‘environs’, local topography, settlement pattern, Small House demand forecast, areas of ecological importance as well as other site specific characteristics. There was a need to designate “V” zone at suitable locations to meet the Small House demand of indigenous villagers in the Ta Kwu Ling North area. The zoning amendment under Item D was made to compensate the loss of “V” zone as a result of rezoning some 0.32ha of land along the northern boundary of the “V” zone of HYW and HHY to “GB” to provide sufficient protection to the HYW Stream. The proposed zoning amendment could strike a balance between meeting the needs of villagers for Small House development and the better conservation of the HYW Stream;

PlanD’s Views

- (w) PlanD’s views on the further representations were summarised in paragraph 5 of the Paper. They were summarised as follows :
 - (i) the supportive views of Further Representations F1 (part) and F2 (part) regarding Amendment Items A to C were noted; and
 - (ii) Further Representations F1 (part), F2 (part) and F3 to F23 were not supported and the draft Ta Kwu Ling North OZP should be amended by the proposed Amendment Items A to D.

6. The Chairman then invited the further representers and their representatives, and the original representers to elaborate on their submissions.

F1 & R4 – Designing Hong Kong Limited

7. With the aid of a Powerpoint presentation, Ms Debby Chan, the representative of further representer F1 and the original representer R4, made the following main points :

- (a) The FCA Study found that the ecological value of the FCA was high as there were relatively few developments due to its low population level and limited infrastructure capacity. It was important to protect the ecological value of the FCA which functioned as a buffer between Shenzhen and Hong Kong. All development should meet high landscape, streetscape and environmental standards;
- (b) AFCD and the relevant parties were working on promoting biological diversity under the Convention on Biological Diversity (CBD). There should not be a loss of biological diversity due to development of the area. The ecological value of the FCA and its importance to Hong Kong and the regional community should be assessed. Development should only be permitted under more stringent controls;
- (c) the amendments to the OZP to protect the HYW Stream were supported but the rezoning of a piece of land from “AGR” to “V” was not supported;
- (d) the “GB” zoning was considered insufficient for the stream protection as a number of developments would still be possible on application to the Board. The flexibility of allowing development through planning application would also create a false presumption amongst villagers and land owners that some areas might still be suitable for development. Small House developments should be deleted from

Column 2 of the Notes of the “GB” zone;

- (e) permitting Small House developments near the stream would result in human disturbance to the water course, e.g. channelisation for flood prevention, pollution due to discharging of sewerage and effluent as well as clearance of land for access and car parking;

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

- (f) developments near the tributaries falling within “V” and “AGR” zones would cause pollution to the water, which would flow to the main HYW Stream and affect its water quality;

[Ms Christina M. Lee and Dr Eugene K.K. Chan arrived to join the meeting at this point.]

- (g) it was not necessary to rezone a piece of land to the west of HHY from “AGR” to “V” as it fell outside the village environ (‘VE’) of HHY. Small House development was included in Column 2 of the “AGR” zone and such development would be controlled and monitored through the planning permission system.

F3 – Ta Kwu Ling District Rural Committee

8. Mr Lam Kam Kwai, the representative of further representer F3, made the following main points :

- (a) there was concern on the rezoning of land from “REC” to “GB” under Amendment Item A while he had no strong views on Amendment Items B to D as long as an equivalent amount of land was rezoned to “V” for village development;
- (b) the FCA Study completed in 2010 recommended that the HYW and Ta Kwu Ling central area could be used for recreational and tourism

use. This recommendation was agreed by the Ta Kwu Ling District Rural Committee as it would provide opportunities for land owners to develop/optimize the use of their land to improve the local economy. However, the OZP was amended to rezone part of the “REC” zone in HYW to “GB”;

9. With the aid of the visualiser, Mr Lam Kam Kwai showed a plan and said that :

- (c) several pieces of land on the north-eastern tip of Amendment Item A were used as pig farms and squatters in the 1970s. The pig farms ceased operation and the owners returned the licences to the Government in 2006/2007 in anticipation of developing the area for recreational use after the opening up of the FCA in 2015;

[Dr Wilton W.T. Fok returned to join the meeting at this point.]

- (d) if properly managed, recreational use would not have adverse impact on the natural environment, as illustrated by the fact that there were barbeque spots and camp sites within Country Parks and their fringe areas. The original “REC” zoning should be retained for land covered by Amendment Item A to provide opportunities for villagers to better utilise their land to improve the local economy.

F4 – 萬秀平，萬新財

10. 萬新財先生, a further representer, made the following main points :

- (a) Amendment Items B and D were supported, particularly that the rezoning of land from “AGR” to “V” under Amendment Item D was mainly to compensate for the loss of “V” zone under Amendment Item C;

- (b) he disagreed with a further representer's views that Small House developments would adversely affect the environment. In fact, the villagers were also concerned about the environment and that could be seen from the incident that they had reported pollution to Kong Yiu Stream, a tributary of HYW Stream, caused by the leakage of the Northeast New Territories (NENT) Landfill. The pollution was not caused by Small House development;
- (c) he objected to Amendment Item A as it was against the intention of opening up the FCA. The HYW Boundary Crossing Facilities would be completed by 2018 and there would be more interaction between Shenzhen and Hong Kong, leading to more development opportunities in HYW. The rezoning of land from "REC" to "GB" under Amendment Item A would reduce the amount of land for such development. Recreational use would not necessarily have adverse impacts on the natural environment and the "REC" zoning should be retained;
- (d) the area was sparsely populated at present as the FCA had yet to be opened up. However, there was a need to plan for the future after the opening up of the FCA when more back-up land was needed. The "GB" zone would affect the development of the region and its associated job opportunity. The "GB" zoning under Amendment Item A would be unfair to land owners. The surrounding vegetated knolls and slopes zoned "GB" were sufficient in providing a buffer;
- (e) the "GB" zone under Amendment Item A might result in additional agricultural activities in the area and the use of pesticide in the agricultural activities would not be environmentally friendly. The original "REC" zoning, which was a practical approach to protecting the environment and well accepted by villagers, should be retained to provide opportunities for villagers to optimise the use of private land, thus giving them incentive to protect the environment.

F5 – Win Team International Investment Ltd

11. Mr Lam Chor Kat, the representative of further representer F5, made the following main points :

- (a) he practised farming in HHY and knew the HYW Stream well from his farming experience;
- (b) the HYW Stream was narrow (about 1 to 3m wide) and the water was polluted. He ceased cultivating in the area about a decade ago. The preservation of the stream was not necessary and the rezoning of the 20m wide riparian area on both sides of the stream was out of proportion and not necessary;

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

- (c) the “REC” zone was accepted by villagers and it would not be practical to rezone the land to “GB”. Development opportunity of the “REC” zone would be hampered by the rezoning to “GB”.

F6 – 韋少勤

12. Mr Ngan Siu Lun, the representative of further representer F6, made the following main points :

- (a) the grounds of representations by F3 to F23 were supported;
- (b) the Board should note that in purchasing land for development, investors would take into consideration, amongst other things, the prevailing development potential/restriction as imposed by the government on the subject piece of land. For Ta Kwu Ling North, the land covered by Amendment Item A was previously zoned

“REC” for recreational use. The rezoning of the area to “GB” would adversely affect the rights of land owners/investors who bought the land on the assumption that recreational use would be permitted under the “REC” zoning;

- (c) as pointed out by other further representers, recreational use would not necessarily affect the intention of natural conservation. Appropriate management of such recreational facilities would be the key consideration. The Board should seriously consider the impact of the rezoning on the future development and strike a balance between development and conservation.

F23 – 曾家裘測量師有限公司

13. With the aid of a Powerpoint presentation, Mr Thomas K.K. Tsang, the representative of further representer F23, made the following main points :

- (a) all the Amendment Items were objected to;
- (b) the need for a 20m wide riparian area on both sides of the narrow HYW Stream (1-2m wide) was questionable. Instead of the uniform 20m wide buffer throughout the stream, the width of the riparian area should be adjusted in proportion to the width of the stream;
- (c) the FCA Study recommended that potential outdoor recreational uses might be accommodated at suitable locations such as HYW and Ta Kwu Ling. This land use framework would present a realistic and comparative low-cost opportunity for villagers and landowners to actively participate in the local economy. He did not agree that the amendments to the Ta Kwu Ling North OZP had generally followed the recommendations of the FCA Study. The rezoning of private land to “GB” was unfair to the villagers as land in the FCA should be released for development;

- (d) the amendments would reduce the amount of land zoned “REC” and “AGR” while increasing land in “GB” zone. As the amount of land involved in the rezoning was substantial, he did not agree with the subject amendments. He considered that the rezoning of the lower portion of the HYW Stream to “GB” was unnecessary;
- (e) it was pointed out by other representers, who were local villagers, that some of the land along HYW Stream had been developed/disturbed with low ecological value. DAFC had also advised that the area at the lower stream course close to the village settlements had moderate and low to moderate ecological values. There was no reason or urgency to rezone such area to “GB” against the recommendation of the FCA Study.

[Mr Frankie W.C. Yeung arrived to join the meeting at this point.]

R2 – World Wide Fund for Nature Hong Kong (WWF)

14. With the aid of a Powerpoint presentation, Mr Andrew Chan, the representative of the original representer R2, made the following main points :

- (a) Amendment Items A to C were supported. HYW Stream was one of the few lowland streams that had not been channelised with high ecological value and a good diversity of native fish species. The impact assessment report of the FCA Study had recognised the ecological importance of HYW Stream and pointed out that certain types of developments within the riparian area of the stream would cause habitat loss and/or water pollution and adversely affect the ecological value of HYW Stream;
- (b) the “REC” zone was insufficient in protecting the HYW Stream and its riparian area. Land filling was carried out at Tsung Yuen Ha in

August 2014 and no prosecution action could be taken by PlanD as there was no restriction on land filling and excavation within the “REC” zone. The Notes of the “REC” zone should be amended to require planning permission for land filling and excavation;

- (c) the tributary of HYW Stream running between HYW and HHY and its riparian area should be rezoned from “V” to “GB”. Sewage discharged from the future Small House developments near the tributary in the area would have adverse impact on the HYW Stream and its downstream area.

R3 – Kadoorie Farm & Botanic Garden Corporation (KFBG)

15. With the aid of a Powerpoint presentation, Ms Woo Ming Chuen, the representer of the original representer R3, made the following main points :

- (a) The Amendment Items providing a buffer to the HYW Stream were supported;
- (b) the ecological value of HYW Stream and the need to provide a buffer zone to protect the stream had been presented to the Board at the hearing of representations of the Ta Kwu Ling North OZP. The protection of the riparian area was important to the stream as developments within the riparian area would increase the surface run-off and have adverse impact on the stream and its ecological value. The rezoning of the HYW Stream and its riparian area to “GB” was supported;
- (c) Small House developments near the stream would increase the number of people living near the stream, which might be dangerous due to the risk of flooding during heavy rain. In order to prevent flooding, the stream would have to be channelised;

- (d) the entire HYW Stream and its riparian area needed to be protected. However, a section of HYW Stream between HYW and HHY was not protected by a conservation zone. As shown on various plans and photos in the Paper prepared by PlanD, the conditions of various stream sections were similar but not all stream sections and the riparian areas were rezoned to “GB” for protection. It was suggested that the section of HYW Stream between HYW and HHY should also be protected by a buffer zone.

16. As the representative of PlanD, the further representers, further representers’ representatives and the original representer’s representatives had finished their presentations, the Chairman invited questions from Members.

17. The Chairman asked Mr Lam Kam Kwai for more information on the condition of land previously occupied by some pig farms. Mr Lam Kam Kwai said that the pig farms were located on private land and had ceased operation. The licences had been returned to the government in 2006/2007. The land had been left idle in anticipation of development for recreational use such as horse riding and adventure park. There were some water ponds nearby which functioned as filtration tanks for treatment of effluent from the pig farms.

18. The Chairman then asked DPO/STN whether such recreational uses required planning permission under the original “REC” zoning. In reply, DPO/STN said that the proposed recreational uses were always permitted under the previous “REC” zoning. Under the current “GB” zone, such recreational uses were included in Column 2 of the Notes and planning permission would be required. The applicant should demonstrate for the Board’s consideration that the proposed recreational uses would not have any adverse impact on the environment.

19. A Member enquired whether the FCA Study had any statutory status. DPO/STN replied that the FCA Study was a consultancy study commissioned by the government to formulate a land use planning framework for the FCA and to examine the opportunities and constraints in developing the area. The findings and recommendations

of the FCA Study had been incorporated where appropriate into the five OZPs covering the FCA. The FCA Study itself did not have statutory status whereas the concerned OZPs were statutory plans.

20. The Vice-chairman noted that Mr Thomas Tsang's proposal to reinstate the "REC" zoning of some areas under Amendment Item A had not included the previous pig farms mentioned by Mr Lam Kam Kwai. He asked whether PlanD had liaised with the further representers on their rezoning proposals. DPO/STN said that PlanD had not received any rezoning proposals in this regard. After the proposed zoning amendments, there would still be more than 99ha of land zoned for "REC" on the OZP. The intention for recreational use as recommended in the FCA Study had not been changed. Mr Thomas K.K. Tsang clarified that while there was a need to protect the upper sections of HYW Stream with high ecological value, the middle and lower sections of HYW Stream with only moderate ecological value were located closer to the existing village were proposed to be reverted back to "REC". He had not liaised with the Chairman of the Ta Kwu Ling District Rural Committee on his proposal.

21. A Member said that a representer had mentioned an incident of land filling in August 2014 within the "REC" zone, and asked whether re-instating the original "REC" zone for Amendment Item A would lead to land filling/excavation in association with recreational use. Mr Lam Kam Kwai clarified that the subject site did not fall within any of the Amendment Items. He said that the subject site was abandoned agricultural land and the land filling was undertaken to provide a level site for recreational use such as horse riding. Clean soil was used, with no adverse environmental impact.

22. As Members did not have any further questions, the Chairman said that the hearing procedure had been completed and that the Board would deliberate on the further representations in the absence of the further representers, the original representers and their representatives, and would inform them of the Board's decision in due course. The Chairman thanked the further representers, further representers' representatives, the original representers and the representatives of PlanD for attending the hearing. They all left the meeting at this point.

23. The meeting was adjourned for a short break of 5 minutes.

[Mr H.W. Cheung left the meeting temporarily and Mr Frankie W.P. Chou left the meeting at this point.]

Deliberation

24. The Chairman said and Members agreed that the supporting views from further representers F1 (part) and F2 (part) should be noted.

25. The Chairman recapitulated that some further representers considered that the “GB” zone was insufficient to protect the ecological values of HYW Stream and its riparian area and they proposed to rezone the subject area to “CA” or “GB(1)”. In considering the zoning for the HYW Stream and its riparian area to meet the representations on 16.5.2014, Members considered that the Board had taken into account AFCD’s advice and the ecological condition of the area and agreed to rezone some sections of HYW Stream and its riparian area to “GB”. The Board also considered that it was not necessary to rezone the area concerned to “CA” or “GB(1)”. The Board would assess any proposal for recreational uses within the “GB” zone under the planning permission system and the “GB” zoning would not preclude the villagers’ opportunities in developing their land for recreational use. Also, a significant part of the area in Ta Kwu Ling North would still be zoned “REC” and the planning intention of recreational use as recommended by the FCA Study had not been changed. Members agreed that the “GB” zoning was appropriate.

26. Regarding the further representers’, i.e. F1 and F2, proposal to provide a buffer for the tributaries of HYW Stream within the “V” zone between HYW and HHY, Members recapitulated that according to the advice from AFCD on the conditions of the tributaries of HYW Stream and the adjoining area which was zoned “V”, and considered that it was not necessary to have a buffer for the subject area.

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

27. Regarding the concerns of a further representer on the possible adverse impact of Small House development within the “V” zone under Amendment Item D on the HYW Stream, Members noted that any application for Small House development would be assessed by LandsD and would be governed by ProPECC PN 5/93 to ensure that there would not be any unacceptable adverse sewage impact. Members considered that the “V” zone under Amendment Item D was appropriate.

28. Regarding the issue of pollution caused by the leakage of the NENT Landfill raised by a further representer, Mr C.W. Tse, Deputy Director of Environmental Protection, informed Members that the waste water from the NENT Landfill was treated, collected and then directed to Shek Wu Hui Sewage Treatment Plant for further treatment. The waste water was not discharged to Ta Kwu Ling North. The incident in July/August 2013 was caused by a leakage of a waste water storage tank.

29. Members agreed that the proposed zonings under Amendment Items A to D should be maintained.

Further Representations No. F1 (part) and F2 (part)

30. After further deliberation, the Board agreed to note the supportive views of Further Representations No. F1 (part) and F2 (part) to the proposed Amendment Items A to C to rezone the various sections of HYW Stream and its 20m riparian area from “REC”, “AGR” and “V” to “GB”.

Further Representations No. F1 (part), F2 (part) and F3 to F23

31. After further deliberation, the Board decided not to uphold Further Representations No. F1 (part), F2 (part) and F3 to F23 and considered that the Plan should be amended by the proposed amendments for the following reasons :

Further Representations No. F1 (part) and F2 (part)

“(a) The proposed land use zonings for various sections of HYW Stream

and its riparian area are considered appropriate to provide sufficient protection to the HYW Stream and its riparian area. The designation of “GB” zoning for the upper section of the Stream has taken into account the relevant factors including the existing land use zoning of different parts of the Stream, the surrounding land uses and planning intention for the areas, concerned department’s expert views on the ecological/habitat conditions of the Stream, and the existing conditions/usage of different Stream sections. There is a general presumption against development within the “GB” zone.

- (b) Regarding the potential impact of Small House developments on the existing stream course between HYW and HHY, there are existing administrative mechanisms to ensure that any potential adverse impacts on the natural stream would be properly addressed. The sewage disposal and site formation works of Small House will be considered by concerned Government departments during the processing of Small House application by LandsD and have to comply with the requirements of relevant departments. In this regard, there is no need to further amend the land use zoning for the tributary of HYW Stream and its riparian area which flows between HYW and HHY.

Further Representations No. F3 to F22

- (c) The upper section of the HYW Stream has high ecological value according to the FCA Study and as such there is a need to provide sufficient protection to the Stream having regard to relevant factors including the existing land use zoning of different parts of the Stream, the surrounding land uses and planning intention for the areas, concerned department’s expert views on the ecological/habitat conditions of the Stream, and the existing conditions/usage of different Stream sections. Designating the upstream section of HYW Stream and its riparian area as “GB” is a balancing act to meet the needs for conservation and development.

Further Representation No. F23

- (d) The OZP prepared for the Ta Kwu Ling North area generally follows the recommendations of the FCA Study. The subject amendments only involve the revision of land use zonings of the upstream section of HYW Stream which is identified as having high ecological value under the FCA Study and in response to the concern of the Board that some site formation works incidental to the recreational developments along the Stream might have adverse ecological impact on the stream.
- (e) It is well aware that some of the land affected by the proposed amendment items is privately owned land but land ownership is not a material planning consideration in drawing up the land use zoning as it would be subject to change under prevailing market conditions.”

Sha Tin, Tai Po & North District

Agenda Items 4 and 5

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-KLH/461

Proposed House (New Territories Exempted House – Small House) in “Green Belt” Zone,
Lot 183 s.A in D.D. 9, Kau Lung Hang, Tai Po

Review of Application No. A/NE-KLH/462

Proposed House (New Territories Exempted House – Small House) in “Green Belt” Zone,
Lot 183 s.B in D.D. 9, Kau Lung Hang, Tai Po

(TPB Papers No. 9733 and 9734)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

32. The Vice-Chairman declared interests in these items for owning a flat and car parks with spouse in the Tai Po area. Since the property owned by the Vice-Chairman was not located in proximity to the application sites, Members agreed that the Vice-Chairman should be allowed to stay in the meeting.

33. The following representatives from the Planning Department (PlanD) and the applicants were invited to the meeting at this point :

Mr C.K. Soh - District Planning Officer/Shu Tin, Tai Po & North (DPO/STN), PlanD

Mr Chan Tai Fok - Applicants' representative

34. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN to brief Members on the applications.

35. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, presented the applications and covered the following main points as detailed in the Paper :

Background

(a) On 13.6.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the applications and the reasons were :

(i) about 7.24 hectares of land were available within the "Village Type Development" ("V") zone of Yuen Leng, Kau Lung Hang Lo Wai and Kau Lung Hang San Wai, which was more than enough to meet the total number of outstanding Small House applications. Land was still available within the "V" zone for Small House development;

- (ii) the proposed developments were not in line with the planning intention of “Green Belt” (“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. There was no strong planning justification given in the submissions for a departure from the planning intention of the “GB” zone;
- (iii) the proposed developments did not comply with the Interim Criteria for assessing planning application for New Territories Exempt House/Small House development in that the proposed developments would cause adverse landscape impact to the surrounding area;
- (iv) the applications did not comply with the Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the proposed developments would affect the existing natural landscape on the surrounding environment; and
- (v) the approval of the applications would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area;

The Site and the Surrounding Area

- (b) the Sites were located at the northern fringe of Kau Lung Hang Lo Wai and were within the village environs (‘VE’) of Yuen Leng and Kau Lung Hang Lo Wai and San Wai as well as the water gathering

ground (WGG). They were accessible via a footpath, and were flat and covered with grass, shrub and some small trees of common species;

- (c) the surrounding areas were mainly rural in character with clusters of village houses and fallow agricultural fields. The village proper of Kau Lung Hang Lo Wai was situated to the southwest of the Sites and a natural stream was located about 10m to the north of the Sites;

Planning Intention

- (d) the planning intention of the “GB” zone 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;

Applicant’s Justifications

- (e) the applicants’ representative had not provided any justifications in support of the review applications to address the concerns of the RNTPC;

Departmental Comments

- (f) District Lands Officer/Tai Po, LandsD (DLO/TP, LandsD) had no objection to the applications as the Sites fell wholly within the ‘VE’ of Yuen Leng and Kau Lung Hang Lo Wan and San Wai. The applicants were indigenous villagers of Kau Lung Hang. The latest outstanding Small House application of Yuen Leng and Kau Lung Hang were 73 and 52 while the number of 10-year Small House demand was 190 and 100 respectively;

- (g) the Chief Town Planner/Urban Design and Landscape (CTP/UD&L) PlanD had reservation on the applications from landscape planning perspective and commented that the applications, if approved, would set an undesirable precedent and encourage Small House developments within the “GB” zone, leading to degradation of landscape quality in the surrounding area;
- (h) other relevant government departments maintained their previous views of no objection to/adverse comments on the applications;

Public Comments

- (i) during the 3-week public inspection period which ended on 8.8.2014, two public comments by Kadoorie Farm & Botanic Garden Corporation and World Wide Fund for Nature Hong Kong were received. The commenters objected to the applications mainly on the grounds that the proposed developments were not in line with the planning intention of the “GB” zone; the proposed developments would cause adverse landscape and ecological impact on the surrounding area including the deterioration of the water quality of the Kau Lung Hang Ecologically Important Stream (EIS); and the approval of the applications would set an undesirable precedent;

PlanD’s Views

- (j) PlanD did not support the review applications based on the planning consideration and assessments in paragraph 7 of the Paper, which were summarised below :
 - (i) about 7.03ha of land was still available within the “V” zone of the concerned villages for Small House development. The RNTPC considered that as the number of outstanding Small House applications was relatively low in comparison

with the amount of land that was available for Small House development within “V” zone, it might be more appropriate to confine the Small House development within the “V” zone, and as there was a general presumption against development in “GB” zone, very strong justifications had to be provided by the applicants to support the applications. The applicants had not provided any justification in support of the review applications to address the concerns of the RNTPC;

- (ii) the Sites and their adjoining areas formed part of the larger “GB” zone which was covered with vegetation and trees. CTP/UD&L of PlanD had reservation on the applications as the approval of the applications might set an undesirable precedent and encourage more Small House developments within the “GB” zone and would result in the degradation of landscape quality in the surrounding area. The applicants had failed to justify a departure from the planning intention of “GB” zone and demonstrated that the proposed development would had no adverse landscape impacts on the “GB” zone;

- (iii) according to LandsD, the latest total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang Lo Wau and San Wai and the 10-year Small House demand forecast for the same villages had changed from 154 to 125 (reduced by 29) and from 276 to 290 (increased by 14) respectively. Based on PlanD’s estimate, there was still land available (about 7.03ha, equivalent to about 281 Small Houses sites) within the “V” zone of the concerned villages to meet the latest outstanding Small Houses applications (125 Small House sites) despite the fact that there would be a general shortage of land within “V” zone to meet future overall demand of Small House development. The

applicants had not provided any justifications in the review applications on why land within “V” zone could not be made available for Small House development. It would be more appropriate to confine the Small House development to the “V” zone;

- (iv) as there had been no material change in planning circumstances for the Sites and their surrounding areas since the rejection of the applications, there was no planning justification to warrant a departure from the RNTPC’s previous decision.

36. The Chairman then invited the applicants’ representative to elaborate on the review applications. With the aid of the visualiser, Mr Chan Tai Fok, who was the Village Representative of Kau Lung Hang Indigenous Inhabitants, made the following main points :

- (a) there were relatively few applications for Small House in Kau Lung Hang Village as cross-village application was uncommon. The applications were made by his brother and both sites fell within the village environs of Kau Lung Hang although they were not within the “V” zone;
- (b) three applications for Small House development within “GB” zone in the vicinity of the application sites were approved by the Board;
- (c) his family owned the two pieces of land (i.e. the application sites) and they were not within the “V” zone. The proposed Small Houses were for their own use and not for speculation. There would not be any adverse sewage impact. No tree felling would be involved and there would not be any adverse impact on the environment;
- (d) he hoped that the Board would give favourable consideration to the applications.

37. As the presentation of the applicants' representative was completed, the Chairman invited questions from Members.

38. The Vice-Chairman asked whether the applicants had attempted to acquire land within the "V" zone for Small House developments. In response, Mr Chan Tai Fok said that although there was vacant land within the "V" zone, there was no vehicular access. Also, land owners would not want to sell their land and it was not possible to acquire suitable land within the "V" zone.

39. The Chairman said that there was also no vehicular access to the application sites and asked the applicants' representative to clarify the reason for not acquiring land within the "V" zone. Mr Chan Tai Fok said that the main reason for not acquiring land within the "V" zone was that the land owners did not want to sell their land.

40. In response to a Member's query on the amount of land available for Small House development, DPO/STN referred to a plan showing the land available in Kau Lung Hang for Small House development and the location of sites for Small House development being processed by LandsD. There were about 7 ha of land in Kau Lung Hang available for Small House development. The Small House applications being processed by LandsD would take up some 3 ha of land. There would still be over 3 ha of land available for Small House developments. However, the overall land available for Small House within the "V" zone would not be adequate if the 10-year forecast for Small House demand were taken into account.

[Mr H.W. Cheung returned to join the meeting at this point.]

41. As Members had no further question, the Chairman informed the applicants' representative that the hearing procedure for the review applications had been completed. The Board would deliberate on the review applications in his absence and inform the applicants of the Board's decisions in due course. The Chairman thanked the applicants' representative and DPO/STN for attending the meeting. They left the meeting at this point.

Deliberation

42. Members generally agreed that the applications were not in line with the planning intention of the “GB” zone, the Interim Criteria for assessing planning application for New Territories Exempted House/Small House development as well as the TPB PG-No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’.

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

- “(a) about 7.03 hectares of land are available within the “Village Type Development” (“V”) zone of Yuen Leng, Kau Lung Hang Lo Wai and Kau Lung Hang San Wai, which is more than enough to meet the total number of outstanding Small House applications. Land is still available within the “V” zone for Small House development;
- (b) the proposed development is not in line with the planning intention of the “Green Belt” (“GB”) zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification given in the submission for a departure from the planning intention of the “GB” zone;
- (c) the proposed development does not comply with the Interim Criteria for assessing planning application for New Territories Exempted House/Small House development in that the proposed development would cause adverse landscape impact to the surrounding area;

- (d) the application does not comply with the Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the proposed development would affect the existing natural landscape on the surrounding environment; and
- (e) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area.”

Agenda Item 6

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-TK/506

Proposed House (New Territories Exempted House – Small House) in “Green Belt” Zone, Government Land in D.D. 27 (near Lot 253 in D.D. 27), Shuen Wan Sha Lan Village,

Tai Po

(TPB Paper No. 9735)

[The meeting was conducted in Cantonese]

44. The following Members declared interests in this item for owning properties in Tai Po area :

- | | |
|----------------------|---|
| Mr Stanley Y.F. Wong | - owning a flat and car parks in Tai Po with spouse |
| Dr W.K. Yau | - owning a flat in Tai Po |

45. Since the properties owned by the Vice-Chairman and Dr W.K. Yau were not located in proximity to the application site, Members agreed that they should be allowed to stay in the meeting.

Presentation and Question Sessions

46. The following representatives from the Planning Department (PlanD) and the applicant were invited to the meeting at this point :

- | | |
|-------------------|---|
| Mr C.K. Soh | - District Planning Officer/Shia Tin,
Tai Po & North (DPO/STN),
PlanD |
| Mr Lee Kwok Fai | - Applicant |
| Ms Wong Wing Kam |) |
| Mr Lee Tim Yau |) Applicant's representatives |
| Mr Lee Kwok Yeung |) |

47. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN to brief Members on the application.

48. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, presented the application and covered the following main points as detailed in the Paper :

Background

- (a) On 23.5.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- (i) the proposed development was not in line with the planning intention of the "Green Belt" ("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. The applicant failed to provide information in the submission to justify a departure from this planning intention;

- (ii) the application did not comply with the interim criteria for consideration of application for New Territories Exempted House/Small House in New Territories and the Town Planning Board Guidelines for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed development would involve site formation works and clearance of vegetation that would affect the existing natural landscape on the surrounding environment; and
- (iii) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area;

The Site and its Surrounding Area

- (b) The Site, located within the village environs ('VE') of Shuen Wan Chan Uk, Lei Uk, Chim Uk and Sha Lan, was accessible by a local track leading to Sha Lan Road. It was located on the lower part of a densely vegetated slope. The Site was about 3m above the level of the existing Small Houses to its further south;
- (c) the surrounding areas were predominantly rural in character with the village proper of Shuen Wan Chan Uk, Lei Uk, Chim Uk and Sha Lan concentrated on areas to the southeast of the Site. The Site together with the slopes to the immediate north and west formed a green buffer between Sha Lan Villas at the top of the slope to its west

and Sha Lan Village below the slope to its east. The area to the southeast and south had recently been cleared to form a works area for construction of Small Houses at the fringe of the “V” zone. An abandoned school within “Government, Institution or Community” zone was located to the northwest of the Site;

Previous/Similar Applications

- (d) part of the Site was the subject of two previous Applications No. A/NE-TK/365 and 441 for Small House development, which were rejected by the RNTPC mainly for reasons of being not in line with the planning intention of the “GB” zone; not complying with the Interim Criteria and the TPB PG-No. 10 in that the proposed development would involve clearance of vegetation and site formation works that could cause adverse impacts on the surrounding natural landscape; and setting of undesirable precedent;
- (e) there were a total of seven similar applications. Of the three applications that were approved by the RNTPC, No. A/NE-TK/300 and 320 were approved with conditions on 5.3.2010 and 24.9.2010 respectively mainly on the consideration that more than 50% of the sites fell within the ‘VE’; there was a general shortage of land in meeting the Small House demand; and the proposed Small Houses could be connected to the planned sewerage system in the area. Application No. A/NE-TK/504 mainly for rectification of site formation works of the proposed Small House scheme under Application No. A/NE-TK/300 was approved with conditions by the RNTPC on 25.4.2014;
- (f) the remaining four applications (No. A/NE-TK/280, 306, 353 and 502) were rejected by the RNTPC/the Board on review between 2009 and 2014 mainly for reasons of being not in line with the planning intention of the “GB” zone; not complying with the Interim

Criteria/TPB Guidelines for Application for Development within “GB” zone in that the proposed development would involve site formation works and clearance of vegetation that would affect the existing natural landscape on the surrounding environment; and setting of undesirable precedent for other similar applications in the area;

Planning Intention

- (g) the planning intention of the “GB” zone 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;

Applicant’s Justifications

- (h) the applicant put forth the following justifications in support of the review application :
 - (i) the vegetation in the surrounding areas of the Site was common shrubs with low conservation value;
 - (ii) the Site was covered with construction wastes/debris which was low in scenic value and dirty;
 - (iii) the applicant was willing to provide planting on both sides of the proposed Small House to enhance landscape value of the surrounding areas. The planting proposal was considered feasible as the Site was 4m away from the other village houses;
 - (iv) there were approved planning applications for Small House

development in the vicinity such as Lot 253 in D.D.27, even though more than 50% of the application site fell outside “Village Type Development” (“V”) zone;

- (v) the proposed development with landscaping could enhance the scenic and landscape value to the surrounding areas as the Site was currently covered by gravels and mud. This complied with the Interim Criteria (c) that the proposed development could phase out obnoxious use;
- (vi) there was serious shortage of land available within the “V” zone of Shuen Wan Chan Uk, Lei Uk, Chim Uk and Sha Lan. The applicant needed a Small House to improve the living quality; and
- (vii) a raised platform would be constructed so as not to affect the vegetation.

Departmental Comments

- (i) The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD maintained his previous view of objecting to the application for the following reasons :
 - (i) the Site fell entirely within the “GB” zone, which served as a buffer to contain urban sprawl in the rural area. Clearance of vegetation on site would degrade the landscape quality in the surrounding area;
 - (ii) the proposed Small House occupied the entire Site and the proposed mitigation planting was outside the application area. He doubted whether the proposed landscape could be implemented on site as there was land ownership

implication;

- (iii) since the footprint of the proposed Small House occupied the entire site, clearance of vegetation was inevitable for the construction of the Small House. The proposed raised platform to the Small House might raise concern on visual impact;
 - (iv) there were five existing trees within the Site and abundant trees and shrubs in the surrounding area, which formed part of the woodland adding to the landscape quality of the area. The proposed Small House would likely involve cutting of slopes/building of raised platform and associated works that might affect the surrounding natural vegetated slopes. No information had been provided to demonstrate that the formation works would not have adverse impacts on the existing landscape resources; and
 - (v) it was noted that the area to the south of the Site had been cleared of vegetation and the original slope profile had been disturbed. The construction of the proposed Small House would result in further disturbance to the wooded slope and encroachment of developments onto the green belt. Approval of the subject application would set an undesirable precedent which would encourage similar Small House applications in the area;
- (j) the Commissioner for Transport (C for T) had reservation on the application and considered that such type of development should be confined within the “V” zone as far as possible. The proposed Small House would set an undesirable precedent case for similar applications outside the “V” zone and the resulting cumulative adverse traffic impact could be substantial. Notwithstanding the

above, as the subject application only involved the construction of one Small House, it could be tolerated unless it was rejected on other grounds;

- (k) other government departments consulted maintained their views of having no objection to/adverse comments on the application;

Public Comments

- (l) during the 3-week public inspection period which ended on 25.7.2014, four public comments were received. The three public comments from Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong Limited and World Wide Fund for Nature Hong Kong objected to the application mainly on the grounds that the proposed development was not in line with the planning intention of the “GB” zone and would involve slope cutting work which had adverse landscape impact on the surrounding areas; the approval of the application would set an undesirable precedent for similar development in the “GB” zone; and the proposed development without proper ancillary facilities would cause adverse water quality, sewerage and traffic impacts on the surrounding areas;
- (m) one public comment from the Indigenous Inhabitant Representative of Sha Lan Village supported the application on the ground that there was insufficient land within the “V” zone to satisfy the Small House demand of the concerned village;

[Dr C.P. Lau left the meeting temporarily at this point.]

PlanD's Views

- (n) PlanD did not support the review application based on the planning consideration and assessments in paragraph 7 of the Paper, which

were summarised below :

- (i) the applicant proposed to plant vegetation and trees on both sides of the Site to enhance the landscape and scenic value of the surrounding area and a raised platform to avoid affecting the surrounding vegetation. The Site was on a slope and trees were found within the Site and the adjoining areas. Clearance of vegetation at the Site was therefore inevitable for the proposed Small House development. CTP/UD&L of PlanD had doubt on the feasibility of the applicant's planting proposal as the proposed planting mitigation measure fell outside the Site and owners' consent of the proposed landscape proposal were unknown. Besides, the construction of the proposed Small House and the associated site formation works would involve an area larger than the application site, thus nature vegetation in the surrounding areas would also be affected and/or cleared. Regarding the applicant's raised platform proposal, CTP/UD&L of PlanD considered that it would not help to preserve the existing vegetation on the Site and might pose adverse visual impact concerns. In view of the above, he objected to the application;
- (ii) despite there was a general shortage of land in meeting the Small House demand in the "V" zone of the concerned village, the application did not meet the Interim Criteria and TPB PG-No. 10 for development within "GB" zone in that the proposed development would involve site formation works and clearance of vegetation that would affect the existing natural landscape on the surrounding environment. Approval of the application would set an undesirable precedent for other similar applications and would encourage similar Small House applications encroaching onto the remaining natural vegetated slope and leading to further

degradation of the landscape quality in the surrounding area;

- (iii) the applicant mentioned that there were approved applications in the vicinity such as Lot 253 in D.D.27. The concerned lot was covered by two planning applications (No. A/NE-TK/300 and A/NE-TK/504). Application No. A/NE-TK/300 was approved with conditions by the RNTPC on 5.3.2010 mainly on the consideration that the application site was located at the bottom of a natural hillside and there were no existing trees within the application site and adverse landscape impact was unlikely. Application No. A/NE-TK/504 for rectification of site formation works of the proposed Small House scheme of application No. A/NE-TK/300 was approved with condition by the RNTPC on 25.04.2014 on the consideration that further adverse landscape impact was unlikely. However, there were existing trees within the Site of current application and the construction of the proposed Small House would have adverse landscape impact on the surrounding areas. The current review application did not warrant the same considerations as the approved applications;
- (iv) there had been no material change in planning circumstances for the Site and its surrounding areas since the rejection of the application which warranted a departure from the RNTPC's previous decision.

49. The Chairman then invited the applicant's representatives to elaborate on the review application. Ms Wong Wing Kam said that her son (the applicant) was an indigenous villager of Sha Lan Village. She queried why the RNTPC did not approve his application for Small House development.

50. The Chairman explained that the review hearing was to provide an opportunity

for the applicant or his representative to present to the Board the justifications for supporting the application. If the applicant considered that the RNTPC had made a wrong decision in rejecting his application, he should provide justifications to convince the Board.

51. Ms Wong Wing Kam said that the Government had provided public rental housing for new immigrants but the indigenous villagers did not have any benefit from the housing policy. It was difficult for them to apply for Small House development.

52. As the presentation of the applicant's representative was completed, the Chairman invited questions from Members.

53. The Chairman asked the applicant whether attempt had been made to acquire land within the "V" zone for the Small House development. In response, Mr Lee Kwok Fai said that they had tried looking for suitable site for Small House development within the "V" zone. However, the village representative advised that there was no suitable government land within the "V" zone for Small House development. The only option for them was to apply for Small House on government land outside the "V" zone. The Chairman then asked whether they had attempted to acquire private land for the proposed Small House. Mr Lee Kwok Fai replied that they would have looked at the option of acquiring private land if it was financially feasible. Notwithstanding this, private land was not available as nobody was willing to sell their land. Hence, it would be more straight forward to apply for a piece of government land for the proposed Small House.

54. As Members had no further question, the Chairman informed the applicant and his representatives that the hearing procedure for the review application had been completed. The Board would deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant, his representatives and DPO/STN for attending the meeting. They left the meeting at this point.

Deliberation

55. Members generally agreed that the application was not in line with the planning intention of the “GB” zone, the Interim Criteria for assessing planning application for New Territories Exempted House/Small House development as well as the Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’. The application site fell entirely within the “GB” zone and there was land available within the “V” zone for Small House development.

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

- “(a) the proposed development is not in line with the planning intention of the “Green Belt” (“GB”) zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. The applicant fails to provide information in the submission to justify a departure from this planning intention;
- (b) the application does not comply with the interim criteria for consideration of application for New Territories Exempted House/Small House in New Territories and the Town Planning Board Guidelines for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the proposed development would involve site formation works and clearance of vegetation that would affect the existing natural landscape on the surrounding environment; and
- (c) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area.”

Hong Kong District

Agenda Item 7

[Open meeting (Presentation and Question Sessions only)]

Request for Deferment of Review of Application No. A/H10/85

House (Temporary Uses of Leisure Pool, Pantry and Sitting-out Area) for a Period of 5 Years in “Green Belt” Zone, Government Land adjoining House B3, Villa Cecil, South of No.200 Victoria Road, Pok Fu Lam

(TPB Paper No. 9743)

[The meeting was conducted in Cantonese]

57. The following Members declared interests in this item :

Mr Roger K.H. Luk) having current business dealings with the owner of
Mr Francis T.K. Ip) the Site

58. Members noted that although the interest of the above Members was direct, the consideration of request for deferment of the review application was procedural in nature, and agreed that they should be allowed to stay in the meeting but should refrain from participating in the discussion.

59. The Secretary reported that the application was for a leisure pool, a pantry and a sitting-out area for a temporary period of 5 years within the “Green Belt” (“GB”) zone in front of the existing house. The application was rejected by the Metro Planning Committee (MPC) in June 2014. On 29.8.2014, the applicant wrote to the Board and requested the Board to defer making a decision on the review application for 2 months in order to allow sufficient time for the applicant to review and address the departmental comments on the application. This was the first request from the applicant for deferment of the review application.

60. Members noted that 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) in that the applicant needed more time to prepare the supplementary information in support of the review application, the deferment period was not indefinite and the deferment would not affect the right or interest of other parties. PlanD had no objection to the request for deferment.

61. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of further information by the applicant. The Board also agreed that the review application should be submitted for its consideration within three months upon receipt of further information submitted by the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicant that the Board had allowed a period of two months for preparation of the submission of further information and no further deferment would be granted unless under very special circumstances.

62. As the applicant of the review application to be considered in Agenda Item 8 had not yet arrived, Members agreed that the procedural matters under Agenda Items 11 to 16 would be discussed first.

Procedural Matters

Agenda Item 11

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments made on the Draft Cheung Chau Outline Zoning Plan No. S/I-CC/6 (TPB Paper No. 9737)

[The meeting was conducted in Cantonese.]

63. The following Members had declared interests in this item:

- Mr Lincoln L.H. Huang - being a shareholder and director of a company owing a flat in Lung Tsai Tsuen
- Dr W.K. Yau - involving in the operation of an education centre on the island

64. As the item was procedural in nature and no discussion was required, Members agreed that the above Members should be allowed to stay in the meeting.

65. The Secretary briefly introduced the Paper. On 11.4.2014, the draft Cheung Chau Outline Zoning Plan No. S/I-CC/6, incorporating the amendments to rezone a site at Ping Chong Road from “Other Specified Uses” annotated “Shipyard and Ship Repairing Workshop” to “Commercial (3)” (Amendment Item A), a site (CCIL No. 11) at Fa Peng Road from “Government, Institution or Community (4)” (“G/IC(4)”) to “Residential (Group C) 7” (“R(C)7”) (Amendment Item B1), an area of land generally to the south, west and northwest of CCIL No. 11 at Fa Peng Road from “G/IC(4)”) to “Green Belt” (Amendment Item B2), a site generally to the east and northeast of CCIL No. 11 at Fa Peng Road from “G/IC(4)”) to “R(C)8” (Amendment Item B3), and a site at Fa Peng Road from “R(C)5” to “R(C)8” (Amendment Item C), was exhibited for public inspection under section 5 of the Town Planning Ordinance.

[Mr Frankie W.C. Yeung left the meeting at this point.]

66. During the two-month exhibition period which ended on 11.6.2014, a total of two representations were received. On 27.6.2014, the representations were published for three weeks until 18.7.2014 for public comments. Four comments on the representations were received.

67. Representation R1 submitted by Lucky Limited supported Amendment Items B1 and B2 but opposed Amendment Item B3 while representation R2 submitted by Corona

Land Company Limited opposed Amendment Items B3 and C. All the comments (C1 to C4) submitted by individual members of the public supported the views and grounds of the representation submitted by R2.

68. Since all of the representations and comments were mainly related to the rezoning of sites at Fa Peng Road to “R(C)8” under Amendments Item B3 and C and were similar and interrelated in nature, it was recommended that the Town Planning Board (the Board) could consider the representations and comments collectively in one group. Consideration of the representations and comments by the full Board was tentatively scheduled for 24.10.2014.

69. After deliberation, the Board agreed that the representations and comments should be heard by the Board in the manner as proposed in paragraph 3 of the Paper.

Agenda Item 12

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments made on the Draft Lamma Island Outline Zoning Plan No. S/I-LI/10 (TPB Paper No. 9738)

[The meeting was conducted in Cantonese.]

70. The Secretary briefly introduced the Paper. On 11.4.2014, the draft Lamma Island Outline Zoning Plan (the OZP), incorporating amendments to rezone the North Lamma Public Library (NLPL) site to the northeast of Yung Shue Wan Ferry Pier from “Government, Institution or Community (1)” (“G/IC(1)”) to “G/IC(4)” (Amendment Item A) to facilitate the redevelopment of NLPL under the Signature Project Scheme (SPS) for the Islands District and two existing radio and television transmission stations at Ling Kok Shan from “Conservation Area”(“CA”) to “G/IC(5)” and “G/IC(6)” (Amendment Items B and C) to reflect the existing use, was exhibited for public inspection under section 5 of the Town Planning Ordinance.

71. During the two-month exhibition period, 2 representations were received. On 27.6.2014, the Town Planning Board (the Board) published the representations for three weeks for comments. Upon expiry of the publication period on 18.7.2014, no comment was received.

72. Among the 2 representations received, R1 submitted by Lamma Island (North) Rural Committee supported the amendments to the OZP and R2 submitted by indigenous inhabitant representative, resident representative and a group of indigenous inhabitants of Lo Tik Wan village opposed the “Green Belt” (“GB”) zone at Lo Tik Wan village, which was not an amendment item. R1 was subsequently withdrawn on 24.7.2014.

73. Since R1 had been withdrawn and R2 was considered as invalid and should be treated as not having been made, it was considered that no meeting for consideration of the representation was required.

74. After deliberation, the Board agreed that R2 received was invalid and should be treated as not having been made and meeting for consideration of representation was not required as the only valid representation R1 had been withdrawn.

Agenda Item 13

[Open Meeting]

Information Note and Hearing Arrangement for Considerations of Representations and Comments to the Draft Tuen Mun Outline Zoning Plan No. S/TM/32
(TPB Paper No. 9744)

[The meeting was conducted in Cantonese.]

75. The following Member has declared interests in this item:

Dr C.P. Lau - owning a flat at Kwun Tsing Road, So Kwun Wat

76. As some of the representations were concerned with rezoning sites in Tuen

Mun North to facilitate public housing developments by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA), the following Members had also declared interests in this item:

Mr Stanley Y.F. Wong - being a member of the HKHA and Chairman of the Subsidised Housing Committee of HKHA

Professor P.P. Ho - being a member of the Building Committee of HKHA

Ms Julia M.K. Lau - being a member of the Commercial Properties Committee and Tender Committee of HKHA

Ms Janice W.M. Lai]

Mr Dominic K.K. Lam] having business dealings with HKHA

Mr Patrick H.T. Lau]

Mr H.F. Leung - being a member of the Tender Committee of HKHA and having business dealings with HKHA

Mr K.K. Ling - being a member of the Strategic Planning Committee and Building Committee of HKHA
(as Director of Planning)

Ms Bernadette H.H. Linn - being a member of HKHA
(as Director of Lands)

Mr Frankie W.P. Chou - being an alternative member of the Director of Home Affairs who is a member of the Strategic Planning Committee and Subsidised Housing Committee of HKHA
(as Chief Engineer (Works), Home Affairs Department)

Miss Winnie M.W. Wong (as Principal Assistant Secretary (Transport), Transport and Housing Bureau) - being the representative of the Secretary for Transport and Housing who is a member of the Strategic Planning Committee of HKHA

77. Since the item was procedural in nature and no discussion was required, Members agreed the above Members should be allowed to stay in the meeting. Members also noted that Mr Patrick H.T. Lau and Ms Janice W.M. Lai had tendered apologies for being unable to attend the meeting and Mr Frankie W.P. Chou had left the meeting.

78. The Secretary briefly introduced the Paper. On 2.5.2014, the draft Tuen Mun Outline Zoning Plan No. S/TM/32 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). The major amendments involved rezoning of 14 sites for housing purpose including four in Tuen Mun North (Items A1 to A4), two in Tuen Mun Central (Items B1 and B2), and eight in Tuen Mun East (Items C1 to C5, and C7 to C9). The amendments mainly involved the rezoning of sites from “Government, Institution or Community” (“G/IC”), “Green Belt” (“GB”) to residential use, and rezoning of residential sites with increased development intensity from plot ratio 1.3 to 3.6. Other amendments mainly included the rezoning to reflect s.12A applications agreed by the Rural and New Town Planning Committee (the RNTPC), rezoning of a “Comprehensive Development Area” (“CDA”) site which had been completed and a previously planned crematorium and columbarium site in Area 46 to “Undetermined” (“U”).

79. During the two-month exhibition period, a total of 2,055 representations were received. On 25.7.2014, the representations were published for three weeks for public comments. A total of three comments were received.

80. Amongst the 2,055 representations received, 52 (R5 to R56) were related to Item A2 and Item A3 for rezoning of sites in Tuen Mun North for public housing development; 750 (R60 to R809) were related to the rezoning of a site at Hang Fu Street in

Tuen Mun Central under Item B1; three (R810 to 812) were related to the rezoning of a site at Hin Fat Lane in Tuen Mun Central under Item B2; 1,243 representations (R813 to 2055) were related to the rezoning of sites in Tuen Mun East under Items C1 to C13; three representations (R1 to R3) were related to all items; and four (R4, R57 to R59) were related to a mix of various items.

81. 52 representations (R6 to R56 and R60) were supportive representations and three (R57, R59 and R2055) provided opinions on the items. The remaining 2,000 representations opposed the amendment items.

82. Subsequently, three representers wrote to the Town Planning Board (the Board) withdrawing the representation or indicating that they had not submitted the representations. As such, the total number of valid representations to be considered by the Board was 2,052.

83. In general, the representations were mainly related to the proposed housing sites. Their objection reasons were that there were insufficient technical assessments and inadequate public open space and Government, Institution or Community facilities to support the population increase. There was also concern on lack of public consultation.

84. For the three comments received, one (C1) was related to representations on Items B1, C1 to C5, C7 to C9. One (C2) supported representations objecting to Items A2, B2, C4, C5, C7, C8 and D2. The remaining comment (C3) opposed the rezoning of "GB" sites on the OZP in general without indicating which representation it was related to.

85. Since the amendments incorporated in the Plan had aroused wide interest and concerns of the locals, it was recommended that the representations and comments should be considered by the full Board. The hearing could be accommodated in the Board's regular meeting and a separate hearing session would not be necessary.

86. Based on the subject of the representations and the comments, the Board could consider the representations and comments collectively in three groups. Consideration of the representations and related comments by the full Board was tentatively scheduled for

November 2014.

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

87. After deliberation, the Board agreed that the representations and comments should be heard by the Board in the manner as proposed in paragraph 3 of the Paper.

Agenda Item 14

[Open Meeting]

Application to the Chief Executive under Section 8(2) of the Town Planning Ordinance for Extension of Time Limit for Submission of the

- Draft Kwu Tung North Outline Zoning Plan No. S/KTN/1
- Draft Fanling North Outline Zoning Plan No. S/FLN/1
- Draft Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/19
- Draft Fu Tei Au and Sha Ling Outline Zoning Plan No. S/NE-FTA/13
- Draft Hung Lung Hang Outline Zoning Plan No. S/NE-HLH/8
- Draft Ma Tso Lung and Hoo Hok Wai Outline Zoning Plan No. S/NE-MTL/2

to the Chief Executive in Council for Approval

(TPB Paper No. 9739)

[The meeting was conducted in Cantonese.]

88. The Secretary briefly introduced the Paper. On 20.12.2013, the draft Kwu Tung North (KTN) and Fanling North (FLN) Outline Zoning Plans (OZPs) were exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). These two new draft OZPs were prepared for the KTN and FLN New Development Areas (NDAs). Development of the two NDAs was of territorial significance as they would be the main source of land supply to meet Hong Kong's medium to long-term development needs. During the plan exhibition period, a total of 42,006 representations and 11,608 comments were received for the two OZPs.

89. Four draft OZPs, namely the Fanling/Sheung Shui, Fu Tei Au and Sha Ling,

Hung Lung Hang, and Ma Tso Lung and Hoo Hok Wai OZPs, were also exhibited on 20.12.2013 for public inspection under section 5 of the Ordinance. The amendments of the four OZPs were mainly to excise part of their planning scheme areas for incorporation into the KTN and/or FLN OZPs. During the plan exhibition period, a total of 13 representations were received for these four OZPs. No related comments had been received by the Town Planning Board (the Board).

90. Consideration of the representations and related comments in respect of the draft KTN and FLN OZPs by the full Board under section 6B was tentatively scheduled for commencement in October 2014. According to the statutory time limit, the draft OZPs should be submitted to the Chief Executive in Council (CE in C) for approval on or before 20.11.2014. However, due to the large number of representations and comments received for the KTN and FLN OZPs, separate hearing sessions had been arranged, which would last beyond the said statutory time limit. For the remaining four draft OZPs, the hearing was tentatively scheduled for November/December 2014, which was also beyond the statutory time limit of 20.11.2014.

91. The plan-making process could not be completed within the 9-month statutory time limit for the submission of the draft OZPs to the CE in C for approval (i.e. 20.11.2014) as more time was required to complete the hearing of representations and comments and prepare the submissions to the CE in C.

92. In view of the above, there was a need to apply to CE for an extension of the statutory time limit for six months (i.e. 20.5.2015) to allow sufficient time to complete the plan-making process of all the above six draft OZPs prior to submission to CE in C for approval.

93. After deliberation, the Board agreed that the CE's agreement should be sought under section 8(2) of the Ordinance to extend the time limit for submission of the six draft OZPs (i.e. draft Kwu Tung North OZP No. S/KTN/1, draft Fanling North OZP No. S/FLN/1, draft Fanling/Sheung Shui OZP No. S/FSS/19, draft Fu Tei Au and Sha Ling OZP No. S/NE-FTA/13, draft Hung Lung Hang OZP No. S/NE-HLH/8, and draft Ma Tso Lung and Hoo Hok Wai OZP No. S/NE-MTL/2) to the CE in C for a period of six months

from 20.11.2014 to 20.5.2015.

Agenda Item 15

[Open Meeting]

Submission of the Draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Development Permission Area Plan No. DPA/NE-TT/1A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 9740)

[The meeting was conducted in Cantonese.]

94. The Secretary briefly introduced the Paper. On 8.11.2013, the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Development Permission Area (DPA) Plan No. DPA/NE-TT/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 277 representations were received. On 7.2.2014, the Town Planning Board (the Board) published the representations for public comment and in the first three weeks of the publication period, a total of two comments were received. After giving consideration to all the representations and comments on 1.8.2014, the Board decided not to propose any amendment to the draft DPA Plan to meet the representations.

95. Since the representation consideration process had been completed, the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung DPA Plan was ready for submission to the Chief Executive in Council (CE in C) for approval.

96. After deliberation, the Board agreed:

- (a) that the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung DPA Plan No. DPA/NE-TT/1A and its Notes were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statement (ES) for the draft Tai Tan,

Uk Tau, Ko Tong and Ko Tong Ha Yeung DPA Plan No. DPA/NE-TT/1A as an expression of the planning intention and objectives of the Board for the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung DPA Plan and issued under the name of the Board; and

- (c) that the updated ES is suitable for submission to the CE in C together with the draft DPA Plan.

Agenda Item 16

[Open Meeting]

Submission of the Draft Tin Fu Tsai Outline Zoning Plan No. S/TM-TFT/1A under Section 8 of the Town Planning Ordinance to the Chief Executive Council for Approval
(TPB Paper No. 9741)

[The meeting was conducted in Cantonese.]

97. The Secretary briefly introduced the Paper. On 20.12.2013, the draft Tin Fu Tsai Outline Zoning Plan (OZP) No. S/TM-TFT/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the 2-month exhibition period, a total of 3,902 representations were received. On 4.4.2014, the representations were published for public comment and in the first 3 weeks of the publication period, a total of 2 comments were received. Subsequently, 1 representation was identified not having been made.

98. On 15.8.2014, after giving consideration to the remaining 3,901 representations and the 2 comments under section 6B(1) of the Ordinance, the Board noted the supportive views of Representations No. R1 (Part) and R2 (Part), and decided not to uphold the Representations No. R1 (Part), R2 (Part), R3 to R799 and R801 to R3902 and not to propose any amendment to the Plan.

99. Since the representation consideration process had been completed, the draft Tin Fu Tsai OZP was ready for submission to the Chief Executive in Council (CE in C) for

approval.

100. After deliberation, the Board agreed:

- (d) that the the draft Tin Fu Tsai OZP No. S/TM-TFT/1A and its Notes were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (e) to endorse the updated Explanatory Statement (ES) for the draft Tin Fu Tsai OZP No. S/TM-TFT/1A as an expression of the planning intention and objectives of the Board for the various land use zonings on the draft Tin Fu Tsai OZP and issued under the name of the Board; and
- (f) that the updated ES is suitable for submission to the CE in C together with the draft Tin Fu Tsai OZP.

Sai Kung & Islands District

Agenda Item 8

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/SK-TLS/43

Proposed Public Vehicle Park (Excluding Container Vehicle) in “Green Belt” Zone, Lot 29 (Part) in S.D. 9, Ma Yau Tong Village, Sai Kung
(TPB Paper No. 9732)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

101. The following representatives from the Planning Department (PlanD) and the applicants were invited to the meeting at this point :

Mr Ivan M.K. Chung - District Planning Officer/Sai Kung
& Islands (DPO/SKIs), PlanD

Mr Lee Yan On)
Mr Lee Kin On) Applicant's representatives
Mr Lee Wan On)
Mr Lee Yu Wing)

102. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/SKIs to brief Members on the application.

103. With the aid of a Powerpoint presentation, Mr Ivan M.K. Chung, DPO/SKIs, presented the applications and covered the following main points as detailed in the Paper :

Background

- (a) the applicant sought planning permission for a proposed vehicle park (excluding container vehicles) at the application site, which fell within an area zoned “Green Belt” (“GB”) on the approved Tseng Lan Shue Outline Zoning Plan (OZP) No. S/SK-TLS/8. 25 private cars and 10 goods vehicles (below 10 tonnes) would be provided within the site;
- (b) on 23.5.2014, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) rejected the application and the reasons were:
 - (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 in “GB” zone. The applicant failed to provide strong justification in the

submission for a departure from the planning intention of “GB” zone;

- (ii) the proposed development was not in line with Town Planning Board Guidelines No. 10 (TPB PG-No. 10) in that extensive clearance of natural vegetation had been involved and the planning intention of the “GB” zone would be jeopardised; and
- (iii) approval of the application would set an undesirable precedent for similar applications within the “GB” zone of the OZP. The cumulative effect of approving such other similar applications would result in a general degradation of the environment of the area and bring about further adverse landscape impact.

The Site and its Surrounding Area

- (c) the site was located to the south of Ma Yau Tong Village and accessible via the sub-standard Ma Yau Tong Road, leading to Po Lam Road. It was currently a piece of vacant hard-paved flat land flanked by natural slopes with dense tree cover to the east and south;
- (d) to the north of the site were a densely vegetated knoll, a vehicle repair workshop which was a suspected unauthorised development (UD) and village dwellings within the “Village Type Development” (“V”) zone of Ma Yau Tong. To its east and south were densely vegetated slopes. To its southeast was a recycling workshop which was a suspected UD. To its west were a vehicle repair workshop which was an existing use (EU), a vehicle park which was always permitted under the “Government, Institution or Community” (“G/IC”) zoning, and active agricultural land. Further west were vegetated slopes;

- (e) from the aerial photo taken in 1997, the site at that time was covered by vegetation. The site was the subject of an enforcement case against unauthorised site formation, deposit of converted containers, open storage and parking of vehicles in 1998. The UD was subsequently discontinued in 1999. In 2014, unauthorised parking of vehicles at the site had been detected and the concerned UD ceased operation after enforcement action taken by PlanD;

Previous/Similar Applications

- (f) there was one previous application No. A/SK-TLS/19 for temporary open storage of construction materials and container office submitted by another applicant (but represented by the present applicant) at the site. The application was rejected by the RNTPC on 16.4.1999 on the grounds that: (a) the development was not in line with the planning intention of the “GB” zone/TPB PG-No. 10; (b) the development was incompatible with the surrounding residential uses; (c) no information had been provided to demonstrate that the development would not lead to pollution and that adequate mitigation measures would be provided to address the potential environmental impact; (d) no information had been provided to demonstrate that the development would not have adverse traffic impact on the area; (e) the sub-standard track leading to the site was not suitable for use by heavy vehicles; and (f) setting of an undesirable precedent. There was no similar application for car parking use within the coverage of the Tseng Lan Shue OZP;

Applicant’s Justifications

- (g) the applicant had not put forth any justification to support the review application;

Departmental Comments

- (h) The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD objected to the application as the proposed public vehicle park was considered not compatible with the planning intention of the “GB” zone, and the approval of the application would set an undesirable precedent for similar applications resulting in further encroachment of such incompatible uses onto the “GB” zone and degrade the landscape quality in the area;
- (i) the Director of Environmental Protection (DEP) had no objection to the application subject to the approval conditions to the effect that (i) the design and provision of appropriate environmental mitigation measures to the satisfaction of DEP, and (ii) for better environmental planning, no vehicle exceeding 5.5 tonnes was allowed to enter or be parked on the site at any time;
- (j) other government departments consulted had no objection to or adverse comments on the application;

Public Comments

- (k) during the 3-week public inspection period which ended on 8.8.2014, one public comment from Kadoorie Farm & Botanic Garden Corporation (KFBG) was received. The commenter maintained his objection to the application mainly on the grounds of incompatibility with the planning intention of the “GB” zone; suspicious of “destroy first” activities between 2001 and 2006; and undesirable precedent and potential cumulative impacts of approving the application;

PlanD’s Views

- (l) PlanD did not support the review application based on the planning considerations and assessments in paragraph 7 of the Paper, which

were summarised below :

- (i) the proposed development was not in line with the planning intention of the “GB” zone 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 the “GB” zone, and new developments would only be considered in exceptional circumstances and had to be justified with very strong planning grounds. There were neither exceptional circumstances nor strong planning grounds in the submission for a departure from the planning intention;

- (ii) according to the TPB PG-No.10, any development in the “GB” zone should not involve extensive clearance of existing natural vegetation or affect the existing natural landscape. On this aspect, it was noted from the aerial photo that the site was well vegetated with trees in the southern and eastern portions in 1997. The western part of the Site was cleared in 1998 for the previously unauthorised open storage of construction materials. The eastern part of the Site had been further cleared for the recently discontinued unauthorised vehicle parking use. Therefore, the application did not comply with TPB PG-No. 10 in that extensive clearance of natural vegetation had been involved;

- (iii) the village settlements of Ma Yau Tong Village were about 55m away from the site and along Ma Yau Tong Road. The proposed public vehicle park was for the parking of 25 private cars and 10 goods vehicles (below 10 tonnes). DEP had no objection to the application if the site was only for the parking of vehicles not exceeding 5.5 tonnes; and

- (iv) the RNTPC had not approved any vehicle parking use within the “GB” zones of the Tseng Lan Shue OZP, and although the previous application No. A/SK-TLS/19 at the site was of a slightly different nature (temporary open storage use), it was also rejected by the RNTPC in 1999. Approval of the application would set an undesirable precedent and attract similar applications in the “GB” zone. The cumulative effect of approving similar applications would result in general degradation of the “GB” zone and bring about further adverse landscape impact, thereby jeopardising the planning intention of the “GB” zone.

104. The Chairman then invited the applicant’s representatives to elaborate on the review application. Mr Lee Wan On made the following main points :

- (a) a number of Small Houses were built in Ma Yau Tong Village in the past 10 years, which had led to a shortage of car parking spaces. While he agreed that there should not be development within the “GB” zone, there had not been any assistance from PlanD to help resolve the parking problem. The Board was requested to consider their genuine need for car parking spaces; and
- (b) if it was considered that the site was not suitable for parking of goods vehicles, the villagers of Ma Yau Tong would agree to use the site for parking private cars only. The villagers also agreed to comply with any planning approval conditions if the application was approved;

105. As the presentation of the applicants’ representative was completed, the Chairman invited questions from Members.

106. The Chairman asked whether the proposed public vehicle park was for villagers only, and the reasons for parking goods vehicles. In response, Mr Lee Wan On

said that some villagers were goods vehicle drivers and they would drive their goods vehicles to the village after work. It would be chaotic if they were to park their goods vehicles wherever they wanted. It would be more manageable if the abandoned agricultural land could be used for a public vehicle park. The public vehicle park would be free of charge to local villagers of Ma Yau Tong Village but a charge would be levied for outsiders living in the village.

107. A Member asked the applicant's representatives to clarify whether the site was actually an abandoned agricultural land as it appeared in the aerial photos that the site was covered with vegetation. DPO/SKIs said that the aerial photo taken in 1997 was used as a reference to ascertain the landuse of Ma Yau Tong Village when the relevant Development Permission Area Plan was gazetted at that time. According to the aerial photo, the site was covered with vegetation. PlanD had taken enforcement action in 1998 and 2014 on some unauthorised developments at the site. Mr Lee Wan On clarified that the site was originally a field under cultivation. However, the land owner had ceased cultivating his land and the site was thus covered by overgrown grass, which was mistaken as vegetation.

108. The Chairman asked DPO/SKIs whether a vehicle repair workshop shown on Plan A2 fell within the subject "GB" zone. In response, DPO/SKIs said that the vehicle repair workshop on the north-eastern side of the site fell within the same "GB" zone. The vehicle repair workshop was an existing use and was tolerated, whereas the recycling yard nearby was a non-conforming use.

109. As Members had no further question, the Chairman informed the applicants' representatives that the hearing procedure for the review application had been completed. The Board would deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and DPO/SKIs for attending the meeting. They left the meeting at this point.

Deliberation

110. The Chairman remarked that the Site was the subject of an enforcement case

and the site would need to be reinstated. Strong justifications from the applicant were required in support of the review application.

111. A member observed that the applicant of the subject application as well as the other applicants in the previous two items had not provided justifications in supporting their review applications. He said that as no additional justifications were provided, he queried the need for the Board to consider the review applications. In response, the Secretary said that according to the Town Planning Ordinance (the Ordinance), the applicant aggrieved by the Planning Committee's decisions might apply for a review of the application and there was no requirement under the Ordinance that the review application had to be supported by further justifications.

112. After 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 Papers and considered that they were appropriate. The reasons were :

- “(a) the proposed development is not in line with the planning intention of the “Green Belt” (“GB”) zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development in “GB” zone. The applicant fails to provide strong planning justification in the submission for a departure from the planning intention of “GB” zone;
- (b) the proposed development is not in line with TPB Guidelines No.10 in that extensive clearance of natural vegetation has been involved and the planning intention of the “GB” zone would be jeopardised; and
- (c) approval of the application would set an undesirable precedent for similar applications within the “GB” zones of the OZP. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area and bring

about further adverse landscape impact.”

113. The meeting was adjourned for lunch break at 11:55 a.m.

114. The meeting was resumed at 2:10 p.m.

115. The following Members and the Secretary were present at the resumed meeting:

Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Mr Roger K.H. Luk

Professor P.P. Ho

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Ivan C.S. Fu

Ms Janice W.M. Lai

Mr Lincoln L.H. Huang

Mr Stephen H.B. Yau

Mr F.C. Chan

Mr Francis T.K. Ip

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Deputy Director of Environmental Protection
Mr C.W. Tse

Director of Lands
Ms Bernadette H.H. Linn

Director of Planning
Mr K.K. Ling

Sai Kung & Islands District

Agenda Item 9

[Open Meeting]

Tung Chung New Town Extension Study - Stage 3 Public Engagement

(TPB Paper No. 9726)

[The meeting was conducted in Cantonese]

116. As Ove Arup & Partners Hong Kong Limited (ARUP) was the consultant of the Tung Chung New Town Extension Study (the Study) and the Study had recommended the provision of about 30,000 subsidized housing flats in the Tung Chung New Town Extension (TCNTE) area to be provided by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA), the following Members had declared interests in this item:

Professor S.C. Wong - being the Director of the Institution of Transport Studies. Some activities of the Institute were sponsored by ARUP.

Mr Patrick H.T. Lau]

Mr Dominic K.K. Lam] having business dealings with ARUP

Mr Ivan C.S. Fu]

Mr Stanley Y.F. Wong - being a member of the HKHA and Chairman of the Subsidised Housing Committee of HKHA

Professor P.P. Ho - being a member of the Building Committee of HKHA

Ms Julia M.K. Lau - being a member of the Commercial Properties Committee and Tender Committee of HKHA

- Ms Janice W.M. Lai]
Mr Dominic K.K. Lam] having business dealings with HKHA
Mr Patrick H.T. Lau]
- Mr H.F. Leung - being a member of the Tender Committee of HKHA and having business dealings with HKHA
- Mr K.K. Ling - being a member of the Strategic Planning
(as Director of Planning) Committee and Building Committee of HKHA
- Ms Bernadette H.H. Linn - being a member of HKHA
(as Director of Lands)
- Mr Eric K.S. Hui - being an alternative member of the Director of
(as Assistant Director of Home Affairs who was a member of the
Home Affairs Department) Strategic Planning Committee and Subsidised
Housing Committee of HKHA
- Miss Winnie M.W. Wong - being the representative of the Secretary for
(as Principal Assistant Transport and Housing who was a member of the
Secretary (Transport) of Strategic Planning Committee of HKHA
Transport and Housing
Bureau)

117. Members noted that Mr Patrick H.T. Lau, Mr Dominic K.K. Lam, Mr H.F. Leung, Mr Eric K.S. Hui and Miss Winnie M.W. Wong had tendered their apologies for not being able to attend the afternoon session of the meeting. As the item was only a briefing to Members as part of the public engagement exercise and the above Members who had declared interests had no involvement in the Study, Members agreed that they could stay in the meeting.

Presentation and Question Sessions

118. The following representatives from the Planning Department (PlanD), Civil Engineering and Development Department (CEDD) and ARUP were invited to the meeting at this point:

Mr Ivan M.K. Chung	-	District Planning Officer/Sai Kung & Islands (DPO/SKIs), PlanD
Ms Donna Y.P. Tam	-	Senior Town Planner/Islands (STP/Is), PlanD
Mr W.C. Lui	-	Town Planner/New Plans (TP/NP), PlanD
Mr David K.C. Lo	-	Chief Engineer/Islands (CE/Is), CEDD
Mr Kenneth C.P. Wong	-	Senior Engineer (Islands Division) (SE(Is)), CEDD
Mr Dennis M.K. Lo	-	Engineer 19 (Islands Division) (E(19)), CEDD
Ms Chelsey K.F. Yuen	-	Engineer 9 (Islands Division) (E(9)), CEDD
Mr Daman Lee]	
Ms Theresa Yeung]	ARUP
Mr Henry Shiu]	

119. The Chairman then invited the representatives of PlanD and the consultant to brief Members on the Study – Stage 3 Public Engagement (PE).

120. With the aid of a PowerPoint presentation and a physical model of the Tung Chung New Town Extension (TCNTE) area, Mr Ivan M.K. Chung and Ms Theresa Yeung made the following main points:

Background

- (a) in January 2012, PlanD and CEDD jointly commissioned the Study with the overall objective to extend Tung Chung into a distinct community and propose a development plan which could meet housing, social, economic,

environmental and local needs;

- (b) the PE of the Study was divided into three stages. Stage 1 PE for soliciting public views on planning objectives/principles, opportunities/constraints and key issues was held in mid 2012 while initial land use options for Tung Chung East (TCE) (Theme 1 - Livable Town and Theme 2 - Economic Vibrancy) and Tung Chung West (TCW) were presented to the public in Stage 2 PE conducted in mid 2013. Stage 3 PE was now underway soliciting public views on the draft recommended outline development plans (RODPs) formulated based on public views collected in Stage 2 PE and findings of the technical assessments on the preferred options;

Major Public Views in Stage 2 PE

- (c) majority of the 3,000 public submissions supported a balanced development approach for the new town extension with the comments summarized as follows:

Development Needs

- (i) the new town extension should be implemented in a comprehensive manner with appropriate mix of public and private housing. Balanced housing, economic and tourism developments and provision of more Government, Institution or Community (GIC) facilities were supported;

Economic Development

- (ii) the new town extension should capitalize on the opportunities arisen from the nearby strategic infrastructure and development to formulate an optimal economic and commercial development scheme for the creation of more diversified jobs. Tourism was

supported and the economic and commercial potential of the area should be explored and developed;

Connectivity

- (iii) internal connectivity of Tung Chung should be enhanced and the construction of new railway stations and a comprehensive cycle track network was supported;

Land Use and Urban Design

- (iv) land uses of the rural areas should be optimized. Sustainable urban design should be adopted to integrate the proposed developments with the surroundings to create a pleasant living environment;

Ecology, Environment and Cultural Heritage

- (v) while objecting to the proposed 14 ha reclamation off Ma Wan Chung in TCW, designation of conservation zonings for Tung Chung River and Tung Chung Bay, preservation of historic buildings and the recognised villages were supported;

Draft Recommended Outline Development Plans

- (d) as there were supports for the initial land use options, the preferred scheme for TCE was a hybrid of the development options. Development in the TCNTE area would be integrated with the ecological, historical and rural setting of the area. In response to the public concerns and to ensure that development was balanced against environmental considerations, the originally proposed 14 ha reclamation in TCW would not be further pursued. Under the draft RODPs for TCE and TCW, a total of about 48,000 flats, of which 30,000 (63%) were

subsidized housing and 18,000 (37%) private housing, would be provided in the TCNTE area to accommodate a proposed population of about 140,000 persons (117,000 in TCE and 23,000 in TCW);

[Mr F.C. Chan left temporarily the meeting at this point.]

Transport Oriented Development (TOD) and Connectivity

- (e) the concept of TOD was adopted to create highly concentrated activity hubs in close proximity to the two proposed railway stations in TCE and TCW. A comprehensive pedestrian and cycling network would link up the linear park system, the waterfront, the “Metro Core Area” (which would function as an integrated housing and commercial centre) and the key public facilities in TCE. New cycle tracks in TCW would link up the waterfront with the eco-trails within Tung Chung Valley;

Integration and Compatible Built Form

- (f) a stepped height profile descending from the mountain side/existing new town towards the waterfront was adopted to integrate the natural topography and the existing built form as well as to comply with the airport height restriction. Low-rise and low-density developments were proposed near the waterfront. Open spaces were organized to form view corridors for visual relief and better ventilation;

Optimization of New Town Extension

- (g) sites near the proposed railway stations would have higher plot ratios to capitalize on the convenience brought by the railway;

Open Space and Urban Design

- (h) the proposed streetscapes, open space system, Central Green, town park

and waterfront promenade were co-ordinated to create strong linkages across the entire extension areas and towards the surrounding landscape and existing urban area of Tung Chung New Town (TCNT). Distinctive urban design features such as public and cultural plazas were proposed to serve as focal nodes and event venues. Retail shops would be provided along the open space corridors for the convenience of the residents. Shops and eating places along street fronts and a marina to the north of the reclamation area would add vibrancy to the streets and waterfront of TCE;

[Ms Bernadette H.H. Linn arrived to join the meeting at this point.]

Provision of Government, Institution or Community Facilities

- (i) adequate community, social welfare, recreational and education facilities were proposed in the draft RODPs. A sports ground of 3 ha in area for school sports activities and land for tertiary education use were also reserved;

[Mr F.C. Chan returned to join the meeting at this point.]

Balance between Conservation and Development in TCW

- (j) conservation related zonings were proposed at various locations, taking into account the ecological function and environmental conditions of the areas. There would be a town park of 19 ha on a knoll and a promenade to link up the waterfront area. Without the 14 ha reclamation, the natural coastline of Ma Wan Chung would be preserved. Attenuation ponds were proposed to retain rainwater for natural purification before discharging into the rivers. Some low-rise low-density residential developments would be allowed in Tung Chung Valley while public housing was proposed in areas close to Area 39. The existing recognized villages were respected with the provision of appropriate

“Village Type Development” (“V”) zones. An open space area was reserved adjoining the Hau Wong Temple;

Commercial Development and Job Opportunities

- (k) when planning the commercial activities for the TCNTE area, other development projects on Lantau, including the Hong Kong Boundary Crossing Facilities of the Hong Kong-Zhuhai-Macau Bridge, the North Commercial District of the Airport, the Hong Kong Disneyland, and the other development areas such as Sunny Bay, Siu Ho Wan and East Lantau Metropolis had been taken into account. The proposed retail, office and hotel developments in the TCNTE area with a gross floor area (GFA) of 303,000 m² (155,000 m² for regional and 148,000 m² for local retail uses), 500,000 m² and 50,000 m² respectively were estimated to create more than 40,000 jobs;

Transportation and Connectivity

- (l) two railway stations, each at TCE and TCW, were proposed to serve the extension areas. A section of the future Road P1 between Tung Chung and Tai Ho would be constructed. A comprehensive pedestrian network incorporated into the linear park system and a cycling network in TCE would link up the “Metro Core Area” with the waterfront, the existing TCNT and all the key public facilities. In TCW, a pedestrian walkway would be provided through the town park to connect TCW with TCE. A walkway along the seashore close to the town park for more convenient connection to TCE would also be considered in the next stage. Preliminary assessment indicated that construction of the walkway was feasible;

Stage 3 Public Engagement (PE3)

- (m) PE3 was being conducted between 15.8.2014 and 31.10.2014 to seek

public comments on the draft RODPs. A Public Engagement Digest had been prepared. Briefing sessions had also been arranged/conducted to consult relevant statutory/advisory bodies, including the Islands District Council and Tung Chung Rural Committee, Lantau Development Advisory Committee and the Legislative Council Panel on Development. Focus group meetings had been organized to collect views from community groups. A public forum would be held on 11.10.2014;

121. As the presentation by the representatives of PlanD and the consultant had been completed, the Chairman invited questions and comments from Members.

122. The Chairman asked whether there was area reserved for village type development. In response, Ms Yeung said that areas had been proposed for “V” zone on the draft RODP for TCW taking into consideration the outstanding Small House applications, the 10-year forecast of Small House demand as well as other relevant planning considerations.

123. On matters related to urban design, transportation, housing mix, balanced development and marina, Members asked and made the following questions and suggestions:

Urban Design

- (a) whether there would be planned functions and activities, such as urban farming along the proposed waterfront promenade and the open space corridors/linear park as well as the Central Green to make these areas more interesting to serve as focal/gathering points for the public at all times;
- (b) it was noted that the building height would decrease quite sharply after reaching its highest point in the commercial and residential developments on the southern fringe of TCE towards the North Lantau Highway and the proposed Mass Transit Railway (MTR) TCE station. Whether this abrupt change in building height would be desirable from the natural lighting, ventilation and visual points of view;

- (c) noting that high-rise and high-density subsidized housing and GIC facilities were concentrated in separate clusters, whether this layout could be rearranged to break the massive bulk of the residential blocks and to adopt the concept of neighbourhood planning;
- (d) apart from government-subsented services, whether consideration would be given to reserving space for the provision of non-government-subsented social and community services in the area;
- (e) it was noted that public open space was placed right next to private residential developments resulting in a sudden change of use from the private to the public realm. Consideration should be given to siting semi-public facilities in between for smooth transition;
- (f) while the need to provide 40,000 job opportunities was acknowledged, there might be room to improve the layout and building bulk of the commercial developments, including lowering their development intensities, at or adjacent to the Metro Core, to give relief to the congested environment. As Tung Chung was a gateway to Hong Kong, good urban design would help promote Hong Kong's image;

Transportation

- (g) other than the at-grade open-air pedestrian circulation system, whether elevated and covered walkways would be provided for a pleasant walking environment during inclement weather conditions;
- (h) TCE would cover an area of about 2 km from east to west and about 1 km from north to south. While the provision of a comprehensive pedestrian and cycling network in TCE was appreciated, an integrated design should be examined at the detailed design stage for the provision of appropriate cycle parking facilities at transportation nodes, such as the proposed MTR station and focal points. This would encourage the use of bicycles as an

alternative to feeder services provided by motorized transportation means. Consideration should also be given to introducing a 'bicycle sharing system' to minimize bicycle ownership and the need for bicycle parking;

- (i) proper design of the pedestrian and cycling network in relation to the motorized road network including arrangement for suppressed and elevated pavements and cycle tracks would be important for good streetscape planning. It was necessary to clarify whether the cycling network was designed for leisure or transportation purpose;

Housing Mix and Balanced Development

- (j) about 62% and 38% of the proposed housing in the TCNTE area were for subsidized housing and private housing respectively. If taking into account the existing public housing estates in Tung Chung, whether the housing mix ratio of 60:40 could still be maintained for Tung Chung as a whole;

[Mr C.W. Tse left temporarily the meeting at this point.]

- (k) excessive concentration of subsidized housing might result in social segregation giving rise to various problems, such as juvenile delinquency. Consideration should be given to linking up the lower floors of different types of developments in the extension areas for social coherence; and

Marina

- (l) whether the proposed location of the marina was appropriate and whether there was provision of supporting facilities for the marina development.

124. In response to Members' questions and comments, Mr Chung, DPO/SKIs, Mr David K.C. Lo, CE/Is, Ms Yeung and Mr Daman Lee of ARUP made the following points:

Urban Design

- (a) other than the proposed marina, there would be retail and commercial activities along the open space corridors and the waterfront promenade to attract public using these facilities. Whilst sufficient public space had been planned, the actual use of such public space for flea market and other uses proposed by the public in the public engagement exercises would be further explored in consultation with concerned departments. The draft RODPs prepared at this stage had reserved space for commercial and retail activities. Design guidelines for the Central Green, the open space corridors and the waterfront promenade would be prepared in the next stage in consultation with the Leisure and Cultural Services Department and other relevant parties to ensure a pleasant environment for pedestrians and cyclists;

- (b) the siting of high-rise and high-density developments in TCE was subject to various development constraints. The eastern, southern and northern parts of TCE were subject to the noise impacts from the Tuen Mun-Chek Lap Kok Link and the North Lantau Highway as well as the height restriction of the airport respectively. Proposed GIC and commercial developments were placed on the eastern and southern parts of TCE as noise buffers and only low-rise developments were allowed along the shoreline on the north due to the airport height restriction, leaving just the central area of TCE suitable for high-rise and high-density residential developments. Special features would be incorporated into the design of the Metro Core, which was designated as “Comprehensive Development Area” on the draft RODP, to mitigate the seemingly congested environment in this area. There might also be room for placing GIC blocks within the high-rise residential developments to serve as neighbourhood centres and provide height variation for better air circulation and visual relief. Further liaison with HD would be made to explore the possibility of incorporating GIC uses within public housing developments. The Social Welfare Department and concerned departments would also be consulted with respect to the types of

GIC facilities/services to be provided in the area;

- (c) linear and focal point design concepts were incorporated in the draft RODPs. In terms of linear concept, parks and green corridors running from north to south and from east to west in TCE would form breezeways and visual corridors for the area. The 5 km long promenade with walkways and cycle track would link up the waterfront area of Tung Chung. In terms of focal point, other than the marina and the adjoining commercial activities, which would add vibrancy to the waterfront, the sports ground on the eastern end of TCE provided not only a venue for school sports activities, but was also a very important focal point and gateway to TCE;
- (d) the shops and eating place permissible on the lowest three floors of the residential blocks of the “Residential Special” (“RS”) and “Residential 1” (“R1”) developments, which were similar to “Residential (Group A)” (“R(A)”) developments on outline zoning plans (OZPs), adjoining the open space uses would help provide transition from the private to the public realm;
- (e) in disposing the sites for private housing developments, conditions would be incorporated into the lease requiring compliance of relevant urban design requirements;

[Mr C.W. Tse returned to join the meeting at this point.]

Transportation

- (f) the provision of elevated walkways for internal connection would be studied in the next stage;
- (g) there were bicycle parking facilities reserved in the proposed MTR stations. Relevant bureaux and the Transport Department would be consulted in respect of the proposed bicycle sharing system and provision of more cycle

parking spaces at focal points;

- (h) the cycle track system was proposed for both leisure and transportation purposes. It was a popular activity for people to cycle to Tung Chung from Sunny Bay. Refinements to the proposed cycling network would be explored at the next stage with a view to making cycling an effective feeder service;

Housing Mix and Balanced Development

- (i) the overall housing mix of Tung Chung, including the existing new town and the extension area, was 63% for subsidized housing and 37% for private housing. This ratio was in line with the recommendation of the Long Term Housing Strategy Steering Committee. Adjustment to the mix might be considered in the next stage where appropriate;
- (j) the lowest three floors permissible for non-residential development in high-density residential development had provided opportunity for mix and interaction of people from different walks of life and provision of social and community services to meet the needs of residents;
- (k) public housing in Tung Chung was one of the areas where ethnic minorities, other than single-parent families, concentrated. In the previous public engagement exercises, demand for sports ground for cricket was received. Sites had been reserved for various GIC, recreational and sports uses but the types of GIC, recreational and sports activities to be provided had yet to be determined; and

Marina

- (l) the sea to the north of the proposed marina was a ferry channel with water deep enough for berthing of small to medium-sized leisure boats. The proposed location had avoided the sensitive Tai Ho area. There were

planned hotel and commercial uses in the vicinity to complement the marina use.

125. The Chairman concluded the discussion and requested the Study Team to take note of Members' comments and suggestions. He thanked the representatives of the government departments and the consultant for attending the meeting. They left the meeting at this point.

[Mr Stephen H.B. Yau left the meeting at this point.]

[The meeting was adjourned for a short break of 10 minutes.]

Kowloon District

Agenda Item 10

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/K18/304

Temporary School (Kindergarten) for a Period of 3 Years in "Residential (Group C)1" zone,
2 Essex Crescent, Kowloon Tong

(TPB Paper No. 9640)

[The meeting was conducted in English and Cantonese.]

126. The following Members had declared interests in this item:

Mr Thomas T.M. Chow - owning a flat at Parc Oasis

Mr H W Cheung - owning a flat at Parc Oasis

Ms Janice W.M. Lai - self and spouse owning flats at Earl Street

- Ms Christina M. Lee - owning properties and parking spaces at Durham Road and with relative owning a property on Cumberland Road for tenant operating as a kindergarten
- Mr David Y.T. Lui - owning a flat in Yau Yat Chuen
- Ms Julia M.K. Lau - family members living in Waterloo Road and being the director of a company owing a property in Kowloon Tong
- Mr Clarence W.C. Leung - living in La Salle Road
- Mr Peter K.T. Yuen - owning a property in Kowloon Tong
- Mr Patrick H.T. Lau - having current business dealings with Lanbase Surveyors Ltd., the consultant of the applicant
- Mr Francis T.K. Ip - having instructing Mr Anthony Ismail, a representative of the applicant, to represent his clients on some previous occasions

[Mr Lincoln L.H. Huang left the meeting at this point.]

127. Members noted that Mr H.W. Cheung, Ms Christina M. Lee, Mr Clarence W.C. Leung and Mr Patrick H.T. Lau had tendered their apologies for not being able to attend the afternoon session of the meeting. Members also noted that the properties of the Chairman, Mr David Y.T. Lui, Mr Peter K.T. Yuen, Ms Janice W.M Lai and her spouse and Ms Julia M.K. Lau's family and company did not have a direct view of the application site and Mr Francis T.K. Ip had no direct involvement in the application. Members agreed that they should be allowed to stay in the meeting.

128. The following representatives from the Planning Department (PlanD), Hong Kong Police Force (HKPF) and Transport Department (TD) and the applicant's representatives were invited to the meeting at this point:

Mr Tom C.K. Yip	-	District Planning Officer/ Kowloon (DPO/K), PlanD
Mr Chan Kit Fung	-	Senior Inspector, HKPF
Mr Cheung Kwok Yin	-	Senior Inspector, HKPF
Mr Lee Yuk Wah	-	Station Sergeant, HKPF
Mr Raymond Leung	-	Engineer, TD
Mr L.S. Fung]	
Mr Bong Fung]	
Ms Theresa Low]	
Mr Kim Chin]	
Mr Anthony Ismail]	Applicant's Representatives
Mr K.H. Lau]	
Mr P.K. Ng]	
Mr Rock Tsang]	
Ms Cherin Ng]	

129. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/K to brief Members on the background to the review application.

130. With the aid of a PowerPoint presentation, Mr Tom C.K. Yip, DPO/K, presented the application and covered the following main points as detailed in the Paper:

The application

- (a) the application was for a proposed temporary school (kindergarten) for

a period of 3 years at 2 Essex Crescent, Kowloon Tong, Kowloon (the site);

(b) on 21.3.2014, the Metro Planning Committee (MPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:

(i) the application was not acceptable as it would aggravate the existing traffic congestion in the vicinity of the site during school peak hours and did not comply with the Town Planning Board (TPB) Guidelines No. 23A in that no effective traffic mitigation measures were proposed to mitigate the impacts; and

(ii) the traffic congestion problem in the area near the site was already serious. The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications would aggravate the traffic condition of the Kowloon Tong Garden Estate (KTGE);

The Site and the Surrounding Areas

(c) the site was zoned “Residential (Group C) 1” (“R(C)1”) on the Kowloon Tong Outline Zoning Plan (OZP);

(d) the site was located near the junction of Essex Crescent and Waterloo Road. It was occupied by one 3-storey building used as temporary kindergarten, which had ceased operation since the school summer break of 2013;

(e) there were residential developments, schools, nurseries, recreation club and hotels in the vicinity of the site;

Proposed Development Parameters

- (f) the site was about 992.8 m² for the development of a temporary 3-storey high kindergarten with 10 classrooms and four activity rooms for 277 students each per the morning and afternoon sessions. Two taxi/private car and seven school minibus lay-bys would be provided. The school hours were from 9:45 am to 12:45 pm for the morning session and from 2:00 pm to 5:00 pm for the afternoon session;

Background

- (g) the site was the subject of a previous planning application No. A/K18/288 for proposed temporary school (kindergarten) use approved with conditions by MPC on 4.11.2011 for a period of 18 months until 4.5.2013;
- (h) the previously approved temporary kindergarten was for relocation of a then existing kindergarten in the same area as the school site was required for residential use in the middle of a school term. The application was approved on a temporary basis for a period of 18 months due to the above unique circumstances. In approving the application, Members of MPC were of the view that the application should not be taken as a precedent for other kindergarten applications in the Kowloon Tong area. The applicant was advised in the approval letter that it should not be assumed that application for further extension would be given by the Board;
- (i) on 29.4.2013, the applicant submitted the subject application No. A/K18/304 for a temporary approval of three years. The applicant clarified in the submission that the application was a new application and not a renewal application;
- (j) the planning permission for A/K18/288 expired on 4.5.2013 and the kindergarten had ceased operation since the summer break of 2013. The

students had also moved to study in the other school premises of the applicant;

- (k) MPC rejected the subject application on 21.3.2014;

Justifications from the Applicant

- (l) the applicant submitted a review statement with a number of decisions of the Town Planning Appeal Board and court cases, a planning law article and responses to departmental comments to illustrate that there were no good reasons for rejecting the application;

Review Ground 1: The application was meritorious in law and in fact

- (m) the application would not aggravate the existing traffic congestion and fully complied with TPB Guidelines No. 34B on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' and No. 23A on 'Application for Kindergarten/Child Care Centre in KTGE under Section 16 of the Town Planning Ordinance';
- (n) the current application was in substance a renewal application and TPB Guidelines No. 34B were relevant;
- (o) the Board was not bound to follow TPB Guidelines No. 23A which were intended for general reference only;
- (p) the proposed traffic mitigation measures (i.e. 'staggering school hours', 'school bus only' policy and 'loading/unloading within campus') were enforceable vide approval conditions and lease, and bi-monthly report would be submitted;
- (q) the Commissioner of Police (C of P)'s views were of insufficient weight

for the Board to reject the application;

- (r) kindergarten was more desirable than flat or house which also generated traffic but without traffic mitigation measures;
- (s) approval of the application would not set any precedent for similar applications in the area as planning applications would be assessed on individual merits;

Ground 2: MPC took irrelevant considerations into account in refusing the application

- (t) the Board did not have the power to have regard to any or all planning considerations. Its discretion must be exercised within the parameters of the approved OZP in question;
- (u) the planning intention for the “R(C)1” sub-area in the OZP was not to avoid aggravating traffic conditions in the area because car parks, loading/unloading bays and basement car parks were permitted in this sub-area and all these facilities generated traffic;
- (v) global positioning system (GPS) would be installed on school buses to ensure that no school bus would arrive earlier than 9:25 am. School regulation would stipulate that any students entering the school before 10:15 am could only do so by school bus;

Departmental Comments

- (w) TD’s major traffic concern for this case was the significant traffic impact due to kerbside pick-up/drop-off activities for the school operation that would reduce the effective capacity of the surrounding streets, rather than the amount of traffic trips generated/attracted. The traffic impact generated from the school operation would unlikely be significant with

effective implementation of the proposed measures and the school management should explain how the proposed measures would be implemented;

- (x) HKPF considered that due to the huge amount of schools or related premises in the Kowloon Tong area, the kerbside activities thereat, including Essex Crescent, were very heavy, particularly at the morning peak. The effectiveness of the proposed measures to address the traffic issues was a concern. Since there was no new mitigation measures proposed to address the foreseeable traffic impact on Waterloo Road, they maintained their reservation on the application;

Public Comments

- (y) during the statutory public inspection periods of the application, 4,611 public comments were received with 4,602 supporting/having favourable comments and 9 objecting to/having adverse comments on the application;
- (z) the views of the supporting comments were summarized as follows:
 - (i) the closure of the kindergarten would lead to loss of school places for many students and loss of jobs for teachers;
 - (ii) to address the concerns on traffic, the applicant had already implemented various traffic mitigation measures. The 'school bus only' campus approach was widely supported by the parents;
 - (iii) the kindergarten had observed its proposed traffic measures and closely monitored the implementation. The applicant would submit bi-monthly monitoring reports to report on compliance rate. It was the other kindergartens nearby which had caused traffic congestion due to kerbside pick-up/drop-off of students;

and

- (iv) kindergarten was a more appropriate and desirable land use than other non-residential uses;
- (aa) the opposing comments were summarized as follows:
 - (i) the results of the bi-monthly report were not in line with the site observation and not reflecting the actual situation. The traffic issues had not been addressed by the applicant. There was potential underestimation of the demand of mini-school buses. The environmental and safety issues and impacts created by learners' drivers were overlooked;
 - (ii) the 'school bus only' campus policy had been violated and the proposed mitigation measures could not cope with the serious traffic problem at the junction of Essex Crescent/ Waterloo Road; and
 - (iii) KTGE was primarily a low-density residential area but had recently been infringed by non-residential uses including hotels, schools and seminaries, causing disturbance to the tranquillity and livelihood of the area;

Planning Considerations and Assessments

Traffic Impact

- (bb) C of P maintained the stance of 'reservation' as no new mitigation measure had been proposed in the review application to address the foreseeable serious traffic impact on Waterloo Road. The kerbside activities in the area, including Essex Crescent, were very heavy. The effectiveness of the 'school bus only' policy remained to be a concern

and the already undesirable traffic situation would be aggravated;

Town Planning Board Guidelines No. 34A and 23A

- (cc) when the application was considered by MPC on 21.3.2014, the previous temporary planning permission (application No. A/K18/288 valid till 4.5.2013) had already expired for 10 months, and TPB Guidelines No. 34B were not applicable;
- (dd) in considering a section 16 or 17 application, the Board would take into account all relevant planning considerations and the traffic impact of the proposed development was a relevant planning consideration. As stated in TPB Guidelines No. 23A, the traffic condition in KTGE and the increasing number of applications for kindergarten/child care centre in the area were concerns that the Board would carefully assess in the consideration of such applications;

Precedent

- (ee) since the promulgation of the revised TPB Guidelines No. 23A in March 2011, only two applications for temporary kindergarten use (No. A/K18/288 and No. A/K18/308) were approved by the Board. Both applications had their own special circumstances that warranted sympathetic consideration by the Board. For A/K18/288, the previous application at the subject application site, the original premises of the concerned kindergarten was required for residential development, and there was a need for a temporary campus in the middle of a school term. The Board stated that it was not a precedent and further extension should not be assumed. As for A/K18/308 at 14 Essex Crescent, in granting temporary planning permission for this application, the Board was mindful of the unique circumstances that the concerned kindergarten had obtained planning permission before the coming into effect of TPB Guidelines No. 23A, the kindergarten had been operating continuously

since 2008, the application was a renewal application and the concerned departments had no objection to the application;

Other Relevant Points

- (ff) traffic pattern of a low-density residential development was significantly different from that of a kindergarten. As pointed out by the Commissioner for Transport (C for T) and C of P, the traffic concern in the area was mainly due to kerbside activities during school peak hours but not the residential traffic;
- (gg) the Board had a duty to assess the possible impacts, including traffic impact, of a proposed development under a s.16 planning application, and it was considered appropriate for the Board to take into account all relevant planning considerations in assessing the application

PlanD's View

- (hh) PlanD maintained its previous view of not supporting the application.

131. The Chairman then invited the applicant's representative to elaborate on the review application. Mr Anthony Ismail with the aid of some plans and documents on the visualizer and a video clip made the following main points:

Previous planning permission

- (a) the application under review was the subject of a previous approved planning application subject to approval conditions covering traffic control measures including 'staggering school hours', 'school bus only' policy and 'in-campus pick-up/drop-off' as detailed in paragraph 5.2.2 at page 7 of the Paper;
- (b) the traffic control measures had successfully been implemented in 2011.

They had been tried, tested and proven to be effective. When the Board approved the 14 Essex Crescent case (Planning Application No. A/K18/308), the same approval conditions were imposed. The applicant had no objection to those planning approval conditions;

TPB Guidelines No. 23A (TPB PG-No. 23A)

- (c) TPB PG-No. 23A were the Guidelines that PlanD considered the applicant had not complied with. However, those Guidelines should not be followed in considering the application although the applicant had complied with the Guidelines and beyond;

- (d) paragraph 1 of TPB PG-No. 23A stated that to avoid further aggravating the present traffic conditions in the area, it was necessary to assess carefully the traffic implications brought about by new developments in particular kindergartens/child care centres. The Guidelines concerned only new developments and the main criteria set out in paragraph 3 of the Guidelines stated that new proposal for kindergarten/child care centre within KTGE should be supported by a traffic impact assessment and new kindergarten/child care centre within KTGE would only be favourably considered by the Board if there was adequate provision of parking and loading/unloading facilities within the premises such that the setting down/picking up of students could be carried out safely within the premises and that on-street loading/unloading and illegal parking could be minimized;

[Professor P.P. Ho left the meeting at this point.]

- (e) TPB PG-No. 23A applied only to new developments. The meaning of 'new' was not defined in the Guidelines but it should mean 'first time' or 'not existing' since only 'first time' or 'not existing' developments were capable of further aggravating present traffic conditions. The subject application was not new because temporary planning permission had

been granted by MPC on 4.11.2011 for 18 months. TPB PG-No. 23A did not apply;

TPB Guidelines No. 34B (TPB PG-No. 34B)

- (f) paragraph 1 of TPB PG No. 34B stated that the Guidelines set out the application procedures and assessment criteria for applications for renewal of planning approvals, amongst others. 'Renewal' meant something that was not new. The application met the assessment criteria set out in paragraph 4.1 in that there had not been any change in planning circumstances since the previous temporary approval was granted, there were no adverse planning implications arising from the renewal of the planning approval, the planning conditions under previous approval had been complied with, the approval period sought was reasonable and there were no other relevant considerations;

- (g) paragraph 2 of TPB PG-No. 34B stated that should there be new planning circumstances governing the application, the Board was under no obligation to renew the temporary approval. It was stated in their submission that the Court of Appeal had decided that if there were no new planning circumstances, renewal of application could be expected. PlanD's response to the applicability of TPB PG-No. 34B was that it was not applicable but did not say that the application did not come within it. PlanD had misinterpreted TPB PG-No. 23A. The Guidelines did not apply to the subject application. As TPB PG-No. 23A did not apply, TPB PG-No. 34B would apply and planning permission should be granted as their application was in compliance with TPB PG-No. 34B;

Compliance with TPB PG-No. 23A

- (h) even if the Board decided that TPB PG-No. 23A applied, it had been fully complied with;

In-campus pick-up/drop off facilities

- (i) as stated in paragraph 3.2 of TPB PG-No. 23A, before favourable consideration of an application by the Board, it required, firstly, adequate provision of parking and loading/unloading facilities within the premises such that the setting down/picking up of students could be carried out safely within the premises and that on-street loading/unloading and illegal parking could be minimized. The word used was 'minimized', not 'eliminated'. Secondly, the Board was to seek advice from TD on the vehicular access arrangements and the provision of parking and loading/unloading facilities, and thirdly that the design requirements of the parking and loading/unloading facilities as set out under paragraph 3.2 (a), (b) and (c) of the Guidelines be complied with;

- (j) the Guidelines did not require firstly kindergarten/child care centre to have 'staggering school hours' and 'school bus only' policy. Adequate provision of parking and loading/unloading facilities within the premises was more than sufficient to prevent kerbside activities. Secondly, adequate provision of parking and loading/unloading facilities within the premises did not have to be to the effect that on-street loading/unloading and illegal parking could be eliminated, but just minimized. The Guidelines did accept and recognize that some parents or drivers might drop off or pick up students from the street. The proposed kindergarten was not required to stop all such activities as what the Guidelines talked about was 'minimized', not 'eliminated'. It was noteworthy that since the school was in operation from November 2011, C of P had never said that actions had been taken against illegal kerbside activities;

- (k) the unchallenged evidence was that only a few parents contravened the 'school bus only' policy. In the applicant's responses to C of P's comment, the transport consultant indicated that non-compliance was negligible and dropped from 4% to 0-0.7% from the bi-monthly monitoring report (BMR) No. 1 to BMR No. 3 to 6. The traffic control

measures worked;

- (l) the Guidelines did not require advice from C of P on the vehicular access arrangement and on the provision of parking and loading/unloading facilities. Advice was only required from TD;
- (m) there were parking and loading/unloading facilities within the premises and video recording taken on 12.4.2013 demonstrated how the 'school bus only' policy operated and there were no on-street loading and unloading activities. The two taxi/private car parking spaces within the premises were for emergency situations;
- (n) C for T's comments on the application were in paragraph 5.2.2 of the Paper. Regarding the traffic control measures, the applicant had not only proposed them but also effectively implemented them. Traffic generated by the kindergarten was insignificant;

Staggering school hours

- (o) the school hours were from 9:45 am to 12:45 pm for the morning session and from 2:00 pm to 5:00 pm for the afternoon session, which had avoided the peak hours of the other schools in the area. C for T had no problem with the proposed school hours. Even if some students would come by car or taxi, they would not be in the peak hours;

School bus only policy

- (p) it was mandatory for all students to use school bus unless they used mass public transport excluding taxi or came on foot. The policy would be made an admission requirement and contravention would result in forfeiture of the student's place. Besides, parents would be required to sign and return a letter of undertaking confirming their agreement to abide by the 'school bus only' policy. The policy was enforceable and

the risk of forfeiting a child's place for refusing the 'school bus only' policy was a powerful disincentive;

- (q) C for T had no adverse comments on the compliance of the 'staggering school hours', 'school bus only' policy and 'in-campus pick-up/drop off' facilities. In his letter dated 15.4.2013, he stated that the traffic mitigation measures implemented by the school were so far satisfactory and there was no obvious deterioration in traffic condition at Essex Crescent since its operation;

The 14 Essex Crescent Case

- (r) the 14 Essex Crescent case was almost identical to the subject application. The applicant of the subject application had tried and tested the three proposed traffic control measures to mitigate the traffic impacts, which had proven to be effective. It was only fair and reasonable for the Board to treat the subject application equally with the 14 Essex Crescent case. Both cases had complied with TPB PG-No. 34B and there would be no significant traffic impacts from kerbside activities if the three proposed traffic control measures were implemented;
- (s) although PlanD seemingly said that the 14 Essex Crescent case had a history to it and required to be treated differently, the subject case also had a history, which was more in favour of granting planning permission. There was no reason for the 14 Essex Crescent case to have been accepted and their case not to be accepted;

Comments of C of P

- (t) C of P also had reservation on the 14 Essex Crescent case. C of P's comment on the subject application that the effectiveness of the 'school bus only' policy remained to be of concern and there might be non-compliance due to various reasons had completely ignored the

effective implementation of the 'school bus only' policy of the previous planning permission of the subject case. There was evidence to show that non-compliance was unlikely;

- (u) the kerbside activities alleged by C of P were created by the other schools. If all these other schools had within site loading/unloading facilities and if they complied with TPB PG-No. 23A, there would not be any kerbside activities;
- (v) C of P's comment that 'the area of Kowloon Tong is apparently saturated with premises that would attract a large influx of traffic at a point of time, such as schools or alike. This is a structural traffic problem that requires a structural solution, which could not be solved by the proposed mitigation measures' was irrelevant. Structural traffic problem was relevant to plan making but not planning permission. As for his concern on the mere adjustment of time of the morning session could not cope with the foreseeable serious traffic impact on Waterloo Road, it had been shown on the video clip that there was no traffic impact arising from the school bus on Waterloo Road;
- (w) regarding C of P's comments that there was no new mitigation measures proposed to address the foreseeable traffic impact on Waterloo Road, TPB PG-No. 23A did not require mitigation measures but adequate provision of parking and loading/unloading facilities within the premises such that the setting down/picking up of students could be carried out safely within the premises (the application site) and that on-street loading/unloading and illegal parking could be minimized. The applicant had in fact proposed more than what was required. They were the first school to have 'staggering school hours', 'school bus only' policy and 'in-campus picking-up/dropping off' facilities. They also submitted BMR. The three traffic control measures could also be incorporated as conditions of waiver to the lease. The applicant was prepared to put new mitigation measures, such as signing of the letter of

undertaking of compliance with the 'school bus only' policy by parents, contracting with bus operators that picking up and dropping off of students during regular school hours would be confined within the school premises, employing traffic coordinators to supervise traffic situations inside and outside the premises, having bus nanny to supervise the students on bus and to communicate with the traffic coordinators and school to avoid bus coming in when traffic was heavy and installation of GPS to ensure that no school bus would arrive before 9:25 am;

- (x) C for T and C of P's comments had no substance and had been dealt with. Even if they needed new mitigation measures, the applicant had new mitigation measures;

[Mr Roger K.H. Luk left the meeting at this point.]

PlanD's comments

- (y) PlanD's accepting the objection of C for T and C of P was wrong because TPB PG-No. 23A were not applicable. PlanD considered TPB PG-No. 34B not applicable because the previous temporary planning approval had expired and the applicant had advised that the application was a new application instead of a renewal application. The consideration was irrelevant because the Board was concerned with the true and proper meaning of 'new' in TPB PG-No. 23A, which was a matter of law. If the Board took the view that the application was not a new application for the purpose of TPB PG-No. 23A, it did not matter whether the previous temporary planning permission had expired or the applicant had said that it was a new application;
- (z) PlanD did not deny that the application complied with TPB PG-No. 34B if they were applicable and had made no response to their submission that the subject application was in substance a renewal application;

[Dr C.P. Lau left the meeting at this point.]

- (aa) PlanD's comment that TPB PG-No. 23A were not complied with was not agreed to as it had been demonstrated that the Guidelines had been complied with or even beyond. The allegation that approving the application would set an undesirable precedent was not agreed to either. Approving the application would actually set a desirable precedent. They were the first one to have the traffic control measures. If all the other schools had the same traffic control measures, there would be no aggravation of traffic;
- (bb) the no objection to the 14 Essex Crescent case from other departments should not be the only reason for the Board to approve the application because the Board was not a rubber stamp. It was also interesting to note that C for T had more or less the same comments on the subject case as he had for the 14 Essex Crescent case and C of P had less reservation but still had reservation on the 14 Essex Crescent case;
- (cc) aggravating the traffic situation was not a relevant planning consideration. It would only be relevant to the plan-making function. PlanD could not challenge it because it was a matter of law;
- (dd) there was a vast, overwhelming majority of public comments favouring granting planning permission. One of the reasons why they favoured granting planning permission was the successful implementation of the three traffic control measures. For the opposing views, whatever substance they might have, they could be addressed by imposing planning approval conditions; and

Suggested planning approval conditions

- (ee) if the Board was prepared to grant planning permission, it was requested that the permission should be on a temporary basis for a period until end

of August 2017, instead of 5.8.2017. The applicant had no problem with the suggested approval conditions (a) to (f) as detailed in paragraph 8.2 of the Paper. With respect to approval condition (g), it was suggested that instead of revoking the permission immediately, the permission should be revoked if audited or required by the Board so that the Board would be given the power to decide whether or not the permission should be revoked. The applicant also had no problem with the advisory clauses.

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

132. As the presentation of the applicant's representative was completed, the Chairman invited questions from Members.

133. As it was stated in the applicant's letter of 25.4.2013 to the Secretary of the Board that the application submitted on 24.4.2013 was a new application and it was repeatedly stated in the oral submission of the applicant's representative that the Board was not bound to follow and apply TPB PG-No. 23A but, on the other hand, it was stressed in the oral submission that the Guidelines had been complied with, the Chairman asked for clarification on the statement made in the said letter and whether, in the applicant's view, the Board should have regard to TPB PG-No. 23A. In response, Mr Rock Tsang said that there was time limit for application for renewal of planning permission. Paragraph 3.3 of TPB PG-No. 34B stated that any application for renewal had to be submitted to the Board no less than two months before the expiry of the temporary approval. Since the expiry date of their previous planning permission was 4.5.2013, application for renewal would have to be made by 3.3.2013. The applicant first submitted the application for renewal on 26.2.2013. Due to C of P's view of not supporting the application, the applicant withdrew the application on 18.4.2013. Due to the requirement of TPB PG-No.34B, the application submitted by the applicant in April 2013 could not be regarded as a renewal application technically, but it was in substance a renewal application.

134. As regards TPB PG-No. 23A, Mr Anthony Ismail said that the Guidelines were intended for general reference only. Although they should not be disregarded, the Board

was not bound to follow them. However, if the Board did not agree to this submission and considered that the Guidelines were applicable, it was the applicant's alternative submission that the Guidelines had been complied with. To supplement Mr. Tsang's response above, Mr Ismail said that whether the application was new depended not on what the applicant had said but how the Board decided the meaning of 'new' for the purpose of TPB PG-No. 23A. What Mr Tsang stated in his letter was a technical reason and a procedural issue. If the Board looked at the substance of the matter, the application was not a new, for the purpose of TPB PG-No. 23A, but a renewal application. Ms Theresa Low added that they realized C of P's objection to the application submitted in February 2013 when they received the MPC Paper on the application in April 2013. Considering that they could address C of P's concern, they withdrew their application and submitted a new application in April 2013 having regard to paragraph 3.3 of TPB PG-No. 34B. Their application had always been a renewal application.

135. Regarding the submission of the application, Mr Tom C.K. Yip confirmed that the applicant first submitted a renewal application on 26.2.2013, which was received on 28.2.2013, under Application No. A/K18/299. C of P and PlanD's views of having reservation and not supporting the application respectively were incorporated in the paper on the application for consideration by MPC. The applicant subsequently withdrew their renewal application and submitted an application on 24.4.2013 with further clarification in their letter dated 25.4.2013 that the application was a new application. The subject application was a new application both in format and in substance. Firstly, the Board could not renew a planning permission if the permission had already expired at the time of consideration and secondly the school had ceased operation since the summer break of 2013. As such, TPB PG-No. 23A were applicable to the application but not TPB PG-No. 34B.

136. A Member asked how granting planning permission to the subject application could set a desirable precedent noting that the site was zoned "R(C)1" and intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood might be permitted on application to the Board. Approving the application would defeat the planning intention as the kindergarten in question was not confined to serving the nearby residential neighbourhood but to all students in Hong Kong. In response, Mr Ismail said that by 'a desirable precedent', he meant for those people who

intended to use their premises as a kindergarten or school. If they also adopted the traffic control measures for their schools, it would be desirable. Desirable was interpreted in that limited sense. Besides, TPB PG-No. 23A were prepared particularly for kindergarten/child care centre in KTGE mainly zoned "R(C)1" on the Kowloon Tong OZP. Although the Guidelines were for general reference, they were for application for kindergartens/child care centres in KTGE. 'School' was a Column 2 use under the "R(C)1" zone on the OZP and any such use should avoid further aggravating the present traffic conditions in the area. Setting a desirable precedent did not mean encouraging people to make similar applications, but if they did, they needed to have traffic control measures.

137. Under the proposed development scheme of the application, the kindergarten would provide 10 classrooms and four activity rooms to accommodate 277 students each per morning and afternoon session, the Chairman and three other Members asked whether these 277 students were additional ones to the existing students of the applicant's institute in KTGE. In response, Mr Bong Fung said that the 277 students were not additional ones. The kindergarten operated by the applicant was primarily a half-day session school. Some students doing the morning session might also want to attend the afternoon session for some reasons. If this application was approved, these students could go to the kindergarten under application for another session instead of staying in the original school for two sessions. Keeping students in the same school for over a certain period might infringe the Education Regulations. Besides, as the school year had started, it was almost impossible to take in more students. Mr L.S. Fung supplemented that there might be additional students but it would not be a large number. During the operation of the kindergarten in the 18 months covered by the previous temporary planning permission, the number of students was about 170. There would only be a gradual increase of students by about 20% to 30% annually.

138. In response to a Member's question of whether there was any difference in the number of students between the previous planning application No. A/K18/288 and the subject application, Mr Yip said that both the previous and the subject applications applied for a kindergarten for 277 students. Mr Tsang said that the 277 students were the maximum capacity of the proposed 10 classrooms. There was no change between the previous and the present applications. They had no intention to fill the school up to the maximum capacity.

139. Mr Ismail said that the school had proposed a contingency plan which was contained in the school's letter of 23.5.2013 to the Education Bureau (EDB) detailing how the students would be accommodated in their other campuses should renewal to planning permission not be granted after three years. The Chairman remarked that the contingency plan would only be relevant if the Board decided to approve the present application for a temporary period of three years and not to renew it three years later. It should not be the case that the contingency plan needed to be implemented should the Board decide to reject the current application. The Chairman asked Mr Ismail to confirm if his understanding was correct. Mr Ismail said that it was the EDB's comments that approval for registration of the premises would be considered subject to the provision of a contingency plan for placement of pupils in case that the temporary planning permission, if granted, was not renewed, amongst others.

140. Noting that the previous planning application No. A/K18/288 was approved under a unique circumstance, a Member asked if the unique circumstance was still applicable in the present case. In response, Mr Yip said that when the previous application was approved by MPC on 4.11.2011, there was a unique circumstance that a kindergarten operated by the applicant at another site in the Kowloon Tong area was required for residential development. As it was in the middle of a school term, a replacement kindergarten in the same area was urgently required to accommodate the affected students. It was against this background that sympathetic consideration was given and the application was approved with conditions for a temporary period of 18 months. The applicant had been advised in the approval letter that it should not be assumed that application for further extension would be given by the Board. Upon expiry of the 18-month temporary planning permission, the students had been arranged to attend other campuses operated by the applicant and the unique circumstance in 2011 no longer existed. With the lapse of the planning permission for over 10 months and the kindergarten had ceased operation since the summer break of 2013, the present application was not a renewal application and did not warrant the same sympathetic consideration as in 2011.

141. Mr Ismail said that the unique circumstances of the previous planning permission were stated in paragraph 1.4 of the Paper. Circumstance (b) that the applicant had undertaken to implement traffic mitigation measures including 'staggering school hours',

‘school bus only’ campus and ‘loading/unloading within campus’ to address the traffic impact was still valid. Circumstance (a) regarding replacement kindergarten was not a planning criterion under TPB PG-No. 23A. In considering the application under the context of TPB PG-No. 23A, it was only circumstance (b) that was relevant.

142. Mr Ismail further said that it was noted that in approving the application, Members of MPC were of the view that the application should not be taken as a precedent for other applications for kindergarten in the Kowloon Tong area. However, it was TPB PG-No. 34B that should be applicable here. Even though no renewal application was made within the period specified in the Guidelines, it did not make the present application a ‘new’ application. While the applicant informed EDB in May 2013, after the expiry of the temporary planning permission, that there were more than sufficient places in other campuses to accommodate all the students at the kindergarten on the site and parents of the students were willing to move to other campuses, it should not be a reason for rejecting the current application. The development parameters of the previous and the present application were identical. The applicant was not adding anything new. It was a renewal application in substance. In response to a Member’s question, Mr Ismail confirmed that circumstance (a) was no longer valid, but it was not a planning criterion under TPB PG-No. 23A;

143. As Members had no further question, the Chairman informed the applicants’ representatives that the hearing procedure for the review application had been completed. The Board would deliberate on the review application in their absence and inform the applicant of the Board’s decision in due course. The Chairman thanked the applicant’s representatives and representatives of the government departments for attending the meeting. They left the meeting at this point.

[The meeting was adjourned for a short break of 4 minutes.]

Deliberation

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

144. The Vice-chairman considered that whether an application was a new

application depended on not only whether the application was submitted out of time or whether it was admitted in writing by the applicant that the application was a new application but also whether the application was new in substance. Although the development parameters of the previous and the present applications were the same, there was a unique circumstance in the previous case when sympathetic consideration was given in November 2011, i.e. a replacement kindergarten to accommodate the students to be displaced in the Kowloon Tong area in the middle of a school term was required and the three traffic control measures would be implemented to mitigate the traffic impacts. The kindergarten had already ceased operation since the summer break of 2013 and with the absence of the unique circumstance in 2011, the current application was in substance a new application, but not a renewal application. Another Member concurred with the Vice-chairman that there was no longer a need for a replacement kindergarten for the displaced students in the Kowloon Tong area. The school places proposed in the present application would be filled up by new students or students who had already been enrolled in the other campuses of the applicant to attend another session in the proposed kindergarten. With the additional students, more traffic would be induced. Given the existing traffic condition of the area, the application should not be approved.

145. A Member pointed out that the 14 Essex Crescent case under Application No. A/K18/308 was different from the present case. In granting permission for the application, the Board was mindful of the unique circumstances that the concerned kindergarten had obtained planning permission before the coming into effect of TPB PG-No. 23A, the kindergarten had been operating continuously since 2008, the application was a renewal application and concerned departments had no objection to the application. The Vice-chairman agreed that as the school had been in operation since 2008 and no additional students would be resulted, the temporary planning permission for the 14 Essex Crescent case was renewed. The Chairman said that the approval conditions of the three traffic control measures were imposed in the previous planning permission having regard to the special circumstances of the case. Even though there would be some increase in traffic arising from the proposed kindergarten, sympathetic consideration was given at that time, having taken into account the unique circumstances. No matter how well the approval conditions had been complied with, it should not be taken that an application would be approved automatically. The Board had to take into account all relevant

considerations in deciding whether to approve an application.

146. The Chairman said that the additional students would generate new vehicular trips to the school regardless whether they were from the other campuses of the applicant or new students. The new trips generated would have adverse impacts on the already congested traffic and capacity of roads. A Member pointed out that the three proposed traffic control measures were only mitigation measures. When considering the previous application, a monitoring system was proposed to verify if the traffic condition would be out-of-control. There was additional traffic arising from the kindergarten use and the previous planning permission was granted on sympathetic grounds. The Member considered that the two rejection reasons as stated in paragraph 8.1 of the Paper were valid. The proposed kindergarten would generate negative traffic impacts.

147. A Member had doubts if GPS could effectively control school buses to arrive within the 20-minute slot from 9:25 am to 9:45 am. Although 'School' was a Column 2 use under "R(C)1" zone which was intended primarily for residential use, the Board was not bound to approve the application. The Board should consider an application based on the relevant planning considerations, such as increase in traffic. Another Member opined that approving the application might set an undesirable precedent leading to proliferation of school uses in a residential neighbourhood. Another Member said that there would be an increase in student intake in the current proposal. Approving the application would set a precedent for similar applications. The cumulative adverse impacts brought about by the increase in student intake should not be underestimated. A member said that the traffic conditions in the area had already been very bad, regardless of how limited additional adverse impacts that the kindergarten would bring along, the application should not be supported.

148. A Member had reservation on the applicant's interpretation on new application. It was not agreed that once an application was approved, any future application was no longer 'new' regardless of whether the student number would be doubled or the previously approved use had been abandoned. Another Member agreed and considered that the current application was a new application based on the considerations that the application was (a) technically not a renewal application; (b) the school had ceased operation for a long period of time; and (c) there would bring in new students. The kindergarten under application was

not a temporary replacement school for existing students in the Kowloon Tong area like the subject of the previous planning permission (No. A/K18/288). It was considered a new application in terms of context because there were new circumstances as compared with the previous application, including the current application would create new student intake in the area. The Member also considered that it was appropriate for the Board to consult relevant government departments on the application and not confining only to consult the views of C for T. The Guidelines were wrongly quoted by the applicant's team.

149. With respect to compliance with TPB PG-No. 23A, the Chairman said that the Board would make reference to the guidelines and other relevant considerations which might be unique to the application in considering the application. Besides, the applicant only cited the planning criteria under paragraphs 3.1 and 3.2 of the Guidelines, omitting the other planning criteria under paragraph 3.3 which were also relevant. Although C for T opined that he would have no objection to the application if the Board considered the applicant's justifications on effective implementation of the traffic control measures in the application were reliable and acceptable, adequate provision of parking and loading/unloading facilities within the premises was merely meeting the basic requirements. All other relevant considerations, such as C of P's reservation on the application, should also be taken into account in making a decision. Based on the discussion, should the present application be rejected on review, the rejection would be based on considerations that the current case did not have the special circumstance as compared with the previous application, there would be an increase in student intake, and the additional traffic trips generated by the proposed kindergarten would aggravate the existing traffic congestion in the vicinity of the site during school peak hours. It did not comply with TPB PG-No. 23A in that the proposed kindergarten was not sustainable in terms of the capacity of roads in the locality and its surrounding areas.

150. After deliberation, the Board decided to reject the applications on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper. Members agreed that one of the reasons should suitably be amended and a new rejection reason be added to reflect Members' views as expressed in the meeting. The reasons were:

- “(a) the previous temporary approval for kindergarten use was granted on sympathetic grounds on consideration that a temporary replacement kindergarten in the same area was urgently required in the middle of a school term to accommodate students displaced by another kindergarten in the area to be closed. There are no special circumstances that warrant the same sympathetic consideration of the current application;
- (b) the application would involve the intake of additional students by the proposed kindergarten, leading to an overall increase in student population for the Kowloon Tong area hence increase in traffic. This will aggravate the existing traffic congestion in the vicinity of the site during school peak hours and does not comply with the Town Planning Board Guidelines No. 23A in that the proposed kindergarten is not sustainable in terms of the capacity of the roads in the locality and its surrounding areas; and
- (c) the traffic congestion problem in the area near the site is already serious. The approval of the application will set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications will aggravate the traffic condition of the Kowloon Tong Garden Estate.”

Agenda Item 17

[Open Meeting][The meeting was conducted in Cantonese.]

151. There being no other business, the meeting was closed at 6:35p.m.