

**Minutes of 1098th Meeting of the
Town Planning Board held on 5.11.2015**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Michael W.L. Wong

Chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Professor P.P. Ho

Dr C.P. Lau

Mr Clarence W.C. Leung

Dr W.K. Yau

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Stephen H.B. Yau

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Laurence W.C. Poon

Principal Environmental Protection Officer (Strategic Assessment),
Environmental Protection Department

Mr Victor W.T. Yeung

Deputy Director of Lands (General)

Mr Jeff Y.T. Lam (a.m.)

Director of Lands

Ms Bernadette H.H. Linn (p.m.)

Chief Engineer (Works), Home Affairs Department

Mr Martin W.C. Kwan

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Miss Winnie M.W. Wong

Director of Planning

Mr K.K. Ling

Deputy Director of Planning/District

Mr Raymond K.W. Lee

Secretary

Absent with Apologies

Mr Stanley Y.F. Wong

Professor Eddie C.M. Hui

Ms Julia M.K. Lau

Mr Laurence L.J. Li

Ms Anita W.T. Ma

Ms Bonnie J.Y. Chan

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Patrick H.T. Lau

Ms Christina M. Lee

Mr H.F. Leung

Mr F.C. Chan

Mr Frankie W.C. Yeung

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Mr Louis K.H. Kau

Senior Town Planner/Town Planning Board

Miss Anissa W.Y. Lai (a.m.)

Ms Doris S.Y. Ting (p.m.)

Sai Kung & Islands District

Agenda Item 1

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Representations and Comments in respect of Draft Po Toi Islands Outline Zoning Plan No. S/I-PTI/1
(TPB Paper No. 10017)

[The meeting was conducted in Cantonese.]

1. The Chairman said that reasonable notice had been given to the representers and commenters inviting them to attend the hearing, but other than those who were present or had indicated that they would attend the hearing, the rest had either indicated not to attend or made no reply. As reasonable notice had been given to the representers and commenters, Members agreed to proceed with the hearing of the representations and comments in their absence.

2. The Chairman said that the Town Planning Board (the Board) had agreed that the representations and comments in respect of the draft Po Toi Islands Outline Zoning Plan (OZP) No. S/I-PTI/1 would be heard in two groups. The Board would deliberate on the representations and commenters after completion of the presentation and question sessions for both groups.

Group 1 Hearing

Representations No. R7 to R10 and 118 comments No. C1202 to C1319

Presentation and Question Sessions

3. The following government representatives, and the representers/commenters or their representatives were invited to the meeting at this point:

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

Mr Richard Y. L. Siu	- Senior Town Planner/Islands 1 (STP/Is(1)), PlanD
Mr Cary P.H. Ho	Senior Nature Conservation Officer (South), Agriculture, Fisheries and Conservation Department (SNCO(S), AFCD)
Mr Edward F.M. Yuen	Conservation Officer (Scientific Interest), (CO(SI)), AFCD

R9 - Great Peace Investment Ltd.

Ms Anna Lam Lai Kwan]
Mr Vincent Yeung]
Ms Anna Kwong Sum Yee]
Ms Li Chui Ling]
Ms Pauline Lam]
Mr Ted Lam] Representer's Representatives
Mr Kelvin CW Leung]
Mr Kwok Hon Kai]
Mr Ted Yui]
Ms Helen Kwan]

R10/C1203 - Splendid Resources Inc. and Sky Pacific Limited

Mr John Corrigall]
Miss Y.Y. Pong] Representers/Commenters'
Mr Mak Chi Yeung] Representatives

C1240 - Donny Ng

C1260 - 李國新

C1274 - 李金珍

Donny Ng - Commenters' Representative

C1251 - 劉淑薇

C1259 - 劉淑儀

C1264 - 劉金蓮

Yau Ming Chu

- Commenters' Representative

4. The Chairman extended a welcome and explained the procedures of the hearing. He said that to ensure the efficient operation of the meeting, each representer/commenter or their representatives would be allotted 10 minutes for making oral submission. The representers/commenters had been informed about the arrangement before the meeting. There was a timer device to alert the representers/commenters and their representatives 2 minutes before the allotted time was to expire, and when the allotted time limit was up. The Chairman then invited the representative of PlanD to brief Members on the representations.

5. With the aid of a PowerPoint presentation, Mr Richard Y. L. Siu, STP/Is(1), made the following main points as detailed in the TPB Paper No. 10017 (the Paper) :

Background

- (a) on 27 February 2015, the draft Po Toi Islands OZP No. S/I-PTI/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 813 representations and 1,462 comments on representations (comments) were received;
- (b) on 25 September 2015, the Board decided to consider all the representations and comments in two groups :
 - (i) Group 1: four representations (R7 to R10) by a member of the Islands District Council (IsDC) (R7), two landowners (R9 and R10), and an individual (R8) and 118 comments (C1202 to C1319) by two landowners and individuals . All opposing the draft OZP;
 - (ii) Group 2: 809 representations with five from green group (R4) and individuals (R1 to R3 and R5) supporting the OZP, and 804 from

green/concern groups (R6 and R11 to R17) and individuals (R18 to R813) opposing the draft OZP; and 1,344 comments from green/concern groups (C1 to C4) and individuals (C5 to C1201 and C1320 to C1462) opposing the draft OZP;

Major Grounds of the Group 1 Representations

- (c) the major grounds of the representations of Group 1 as summarised in paragraphs 2.3 (a) to (h) of the Paper were highlighted below:

Objection to the conservation zonings on the draft Po Toi OZP

- (i) the proposed conservation zonings would limit the future development and smother the tourism development opportunities of Po Toi;
- (ii) the “Coastal Protection Area” (“CPA”) zone would adversely affect the livelihood of the locals and tourism development; and
- (iii) the proposed conservation zonings would deprive the development rights on private land and contravene Article 6 and 105 of the Basic Law;

Proposed columbarium/memorial garden development

- (iv) memorial garden development would be compatible with the surroundings and had no insurmountable adverse impacts;
- (v) memorial garden development could meet the acute demand for niches and improve livelihood of the locals; and
- (vi) the memorial garden development was an existing use and should be tolerated;

Others

- (vii) the “Village Type Development” (“V”) zone was insufficient to cater for the demand of Small House development;
- (viii) the requirement of planning permission for filling/excavation of land would obstruct provision of infrastructural facilities;
- (ix) the boundaries of burial grounds had not been clearly demarcated on the draft OZP; and
- (x) the draft OZP ignored the needs of villagers and was contrary to the mission of the Board under the Ordinance;

Representers’ Proposals

- (d) the major proposals of representers of Group 1 as summarised in paragraphs 2.3 (i) to (n) of the Paper were to expand the “V” zone, to rezone the private lots of R9 to “Other Specified Uses” (“OU”) annotated “Memorial Garden with Columbarium” and those of R10 to “OU” annotated “Columbarium”, to delete the “CPA” zone on the draft OZP, to resume or compensate for land under conservation zonings, to reserve land for holiday accommodation facilities, and to reserve land for government, institution and community (GIC) facilities;

Comments on Representations

- (e) Group 1 comprised 118 comments (C1202 to C1319) supporting R9 and R10’s objection to the designation of their private lots as “Conservation Area” (“CA”), and their proposals to rezone their sites for development of memorial gardens. Their main grounds were the development was compatible with the surrounding natural environment, and could improve the livelihood of the locals and help address the shortages of columbarium

in Hong Kong;

The Representation Sites and their Surrounding Areas

- (f) Po Toi Islands comprised a group of islands including mainly Po Toi, Mat Chau, Beaufort Island, Sung Kong and Waglan Island having a rural and natural setting with scientific importance and conservation value;
- (g) the sites of R9 and R10 were located at Wan Tsai in southwest Po Toi and were accessed via a footpath leading to the Po Toi Public Pier at the northwest of the sites. The sites were currently covered by vegetation with traces of concrete slabs on the ground at the site of R10;
- (h) the representation sites regarding the “V” zone were situated at that part of Po Toi Village bounded by vegetated slope to the north, Tai Wan to the southwest and a stream to the southeast. A series of one- to two-storey tenement houses were located mainly along the footpath and the northern shore of Tai Wan;

Responses to Representations and Proposals

- (i) the responses to grounds of representations and representers' proposals of Group 1 as detailed in paragraphs 6.17 to 6.22, 6.30 to 6.32, and 6.35 to 6.44 of the Paper were summarized below :

Objection to the conservation zonings on Po Toi and proposals for resumption of/compensation for land under conservation zonings and deletion of “CPA” zone

- (i) Po Toi comprised natural landscape with high ecological and scientific value;
- (ii) designation of “CA”, “CPA” and “Green Belt” (“GB”) zones had

taken into account the landscape, rural and natural characteristics;

- (iii) the designation of “CA” zone on the draft OZP would not deprive the owners’ land use right and was not contradictory to the Articles 6 and 105 of the Basic Law;
- (iv) the designation of “CPA” zone had no implication on the enforcement under the Marine Park and Marine Reserves Regulation (Cap. 476A); and
- (v) private land would not be resumed for nature conservation purposes under prevailing government policy;

Proposed columbarium/memorial garden development in Po Toi and proposal for “OU” zones

- (vi) the proposed developments would likely involve large scale vegetation clearance and might impose adverse ecological impact on the habitats within the “CA” zone;
- (vii) there was no evidence to establish any existing ‘Columbarium’ use on Po Toi;
- (viii) even if memorial garden development was an ‘Existing Use’ (EU), it did not necessarily mean that it could meet relevant legislation and government requirements; and
- (ix) it was premature to assume that the alleged development would be accorded the status of a pre-Bill columbarium by joining the Notification Scheme launched by the Food and Environmental Hygiene Department (FEHD); and

Others

- (x) demand for Small House development and proposals regarding the expansion of the “V” zone:
- Small House demand was only one of the various factors which were considered in drawing up the “V” zone boundary;
 - an incremental approach had been adopted for designating “V” zone for Small House development with a view to minimising adverse impacts on the natural environment and the limited infrastructure on Po Toi;
 - sufficient land had been reserved for Small House development in southern Lamma to meet the application in Lamma;
 - the area proposed for the expansion of the “V” zone was completely outside the ‘village environs’ (‘VE’). Land for building Small House was, in general, confined to areas within ‘VE’; and
 - there was currently no outstanding Small House application and the 10-year forecast for Small House demand in Po Toi was 20 in 2015. There were 0.25 ha of land available to satisfy 50% of the demand;
- (xi) concerns on the planning controls on filling/excavation of land and reserving land for GIC facilities:
- provision of infrastructure and GIC facilities coordinated by government departments was generally always permitted except those involving filling of pond and diversion of stream, as well as filling/excavation of land within the “CA” and

“CPA” zones; and

- the need and timing of provision of infrastructure and GIC facilities would depend on, inter alia, population, provision standards and resources availability in consultation with relevant government departments;

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

(xii) the proposal regarding the expansion of the burial ground near Tai Wan Pier Burial Ground would adversely affect the trees and landscape of the area;

(xiii) unjustified procedures in preparing of the draft OZP:

- consultations with IsDC and the Lamma Island (South) Rural Committee (LISRC) and local residents of Po Toi had been conducted during the preparation of the draft OZP and their comments had been incorporated in the draft OZP as appropriate; and
- the statutory plan-making process was itself a public consultation process under the Ordinance;

(xiv) the proposal of reserving land for holiday accommodation facilities:

- the Notes of the “CA” zone generally followed the Master Schedule of Notes (MSN) so as to allow flexibility for provision of different facilities that might be compatible with the surrounding area for public use; and
- the uses that might impose impacts on the surroundings (e.g. Holiday Camp) had been put in Column 2 uses in the Notes

where planning application to Board was required;

PlanD's Views

- (j) PlanD did not support representations of R7 to R10 and considered that the draft OZP should not be amended to meet the representations.

6. The Chairman then invited the representers/commenters and their representatives to elaborate on their representations/comments.

R9 - Great Peace Investment Ltd.

7. Ms Anna S.Y. Kwong said that their presentation might be slightly longer than 10 minutes and she would like to ask for extension of her allotted presentation time.

8. Referring to a set of physical models which were tabled at the meeting, Ms Kwong explained the character of Po Toi and the existing landscape surrounding the R9's site.

9. With the aid of a PowerPoint presentation, Ms Pauline Lam made the following main points from land use planning perspective:

- (a) while Po Toi had Romer's Tree Frog and a diverse assemblage of over 60 species of butterflies as mentioned in paragraph 6.5 of the Paper, there was no evidence to show that these species appeared within the R9's site;
- (b) the description of paragraph 6.6 of the Paper on vegetation clearance and concrete slabs were not applicable to R9's site;
- (c) though paragraph 6.18 of the Paper mentioned that the Director of Agriculture, Fisheries and Conservation (DAFC) supported the "CA" zone on the OZP, there was no site-specific survey/comment being carried out or provided by DAFC;

- (d) the conclusion in paragraph 6.30 of the Paper that the proposed development would likely involve large scale vegetation clearance and would impose adverse ecological impact on the habitats within the “CA” zone was unfair given that no adverse comments had been made by relevant government departments on the proposed development. The site had been used as a passageway towards the existing burial ground and its conservation value was very low. There was no large scale vegetation clearance involved partly because the site was not heavily vegetated. It was not a “Destroy First, Build Later” case. The proposed use was compatible with the existing graves. Various assessments on traffic, visual and geotechnical aspects had been conducted before the formulation of the proposed scheme;
- (e) while almost 97% of Po Toi was zoned “CA”, Sung Kong and Beaufort Island were zoned “GB”. She queried why Po Toi deserved a more stringent control and how Po Toi differed from Beaufort Island and Sung Kong in terms of scientific significance and conservation value;
- (f) there were currently only nine residents in Po Toi Island and visitors at weekends were around 500 to 700. The settlements and human activities were concentrated in a very small area near Tai Wan and the proposed development would not affect the existing residents and visitors;
- (g) Po Toi was served by ferry services from Aberdeen/Stanley which operated only on Tuesday, Thursday, Saturday and Sunday with more frequent services on Saturday and Sunday. The ferry operator had supported the proposal to increase the frequency should the proposed memorial garden/columbarium be implemented. The site was only a two minutes walk from the ferry pier;
- (h) the proposed memorial garden/columbarium site was surrounded by graves and urns and would not be incompatible with the existing uses;

and

- (i) the “CA” zone was inappropriate for R9’s site as it consisted of 19,517 sq.feet of building lot and 8,732 sq.feet of third class agricultural land. It was located just about 100m away from the ferry pier. The site was served by an existing footpath from the pier and there was a major path heading towards the existing graves in the south. As the path had been actively used by villagers and visitors, it was formed and cleared with no specific habitat type identified. Thus, the site had limited conservation value.

10. With the aid of a PowerPoint presentation, Mr Kwok Hon Kai made the following points from ecological perspective:

- (a) surveys were conducted in September and October of the year which was within the autumn migration season with rich species of birds;
- (b) survey points covered R9’s site and major habitats around the site (including shrubland, wooded areas, village and estuary). Bird species recorded in the site and nearby reference sites were both typical in shrubland. Both species richness and abundance of birds recorded were lower than the surrounding; and
- (c) R9’s site accounted for a very small area of Po Toi and was not considered of special ecological value. Besides, the site was subject to existing disturbance as it was near the existing village and pier, adjacent to existing footpath to the nearby graves. The habitats were thus under recurrent human disturbance and it not necessary to zone the site “CA”.

11. In response to Ms Kwong’s request, the Chairman agreed that 5 more minutes could be allowed for the presentation.

12. With the aid of a PowerPoint presentation, Mr Kelvin C.W. Leung made the

following points from transport and traffic perspectives:

- (a) visitor count surveys were carried out on four festival days in 2015, including the Po Toi Jiao Festival, Ching Ming Festival, immediate Sunday following Ching Ming Festival, and Tin Hau Festival, to identify the utilization of ferry service. It was found that the peak 2-way passenger flow occurred on Ching Ming Festival which was 963 per hour;
- (b) the proposed columbarium comprised about 5,000 niches/urns. Based on the visitor count survey of the existing columbarium in other areas, the estimated number of visitors generated from the proposed columbarium would be about 260 incoming and 255 outgoing per hour. The visitor forecast indicated that there would be a peak 2-way flow of 1,478-1,500 total visitors per hour;
- (c) the distance from the public pier to the site was about 180m with a level difference of approximately 13m. For the existing width of 1.5m to 2.8m footway, the achieved level of service of A or B were higher than the level of service of C which was acceptable to the government. The existing access road was therefore adequate to serve the pedestrian demand; and
- (d) the ferry services could meet the expected passenger of 1,478-1500 which included all types of visitors to the island. The ferry service could be enhanced up to a 15 – 30 min frequency during festival days to meet the increasing demand in the future. The findings of the traffic impact assessment (TIA) revealed that the proposed columbarium would not induce any adverse traffic impact on Po Toi.

13. With the aid of a PowerPoint presentation, Ms Kwong made the following points from architectural design perspective:

- (a) only part of the site, which was levelled, would be used for columbarium

development, the remaining part of the site covering mostly steep slopes, would be reserved for a butterfly garden. The pedestrian access would follow the existing footpath;

- (b) the highest structure of the proposed development would be about 2m in height and thus the visual impact would be insignificant. Besides, the area involving cut and fill would be kept to the minimum;
- (c) the design of the proposed development had made reference to the world heritage site, Skogskyrko Garden, in Stockholm;
- (d) the representer did not take a ‘destroy first, build later’ approach. Rather, he respected the nature and cared for the ancestors. The proposed design was to achieve an integration of the proposed development with the existing natural character of the site. The proposal would be sustainable to provide a green environment for the future generations and no burning activities would be allowed on the site;
- (e) members of the IsDC had expressed concerns on the living conditions of Po Toi as there were no fresh water and electricity supplies and lacking of public facilities. They had reservation on imposing conservation zones on private land which would restrict development, and they also considered that local infrastructure and community facilities of Po Toi should be improved;
- (f) the case of Tung Ping Chau, a well-known global geopark, had provided a lesson. Imposition of conservation zonings in that would not improve the living environment of local residents; and
- (g) it would not bring any benefit to the local livelihood of Po Toi if the “CA” zone was retained.

R10/C1203 - Splendid Resources Inc. and Sky Pacific Limited

14. With the aid of a PowerPoint presentation, Miss Y.Y. Pong made the following main points :

- (a) the private lots of R10 fell within the “CA” zone on the Po Toi OZP. There were existing burial ground, graves and urns in the area including the land owned by R10. As such, memorial garden was considered a compatible use in the area;

Background of the existing use of the site

- (b) R10 had previously made an enquiry to PlanD asking whether the Po Toi Islands was subject to any development control before commencing site works, and PlanD had advised that there were no statutory planning control for the site. The Lands Department (LandsD) did not give any advice whether the proposed memorial garden was allowed under the lease. R10 therefore began to lay 2,850 slabs within his lots, which was before publication of the Development Permission Area (DPA) plan;
- (c) immediately after the news report on 19.2.2012 that the Po Toi Islands had changed into a thousand graves island, a number of government departments had inspected the site. None of them took any enforcement action except that LandsD issued a notice demanding cessation of the works on the site. The columbarium development in the name of Oasis was in existence 12 days before the publication of the first DPA plan of the Po Toi Islands on 2.3.2012;
- (d) at present, only a handful of villagers were living on the island due to lack of basic facilities, transport and employment. Po Toi had not been provided with the needed services, and life was hard without local developments to create jobs and to justify provision of more infrastructures;

- (e) the site was accessed via hiking trails on both private land and government land. FEHD had inspected and counted the number of niches of the Oasis twice after the Columbaria Bill was published on 16.6.2014 and included the development as a pre-Bill columbarium on 8.8.2014;
- (f) it was proposed to rezone the site from “CA” to “OU” annotated “Columbarium”. The justifications of the representers were as follows:
 - (i) there were graves and urns existing on many parts of Po Toi, including land owned by R10. The use for graves and urns was no different from that of ground niches, i.e. for memorial of the dead. Visual impact of the latter would be less than that of graves;
 - (ii) the number of ground niches was only 2,850. According to the estimate made by another columbarium, the total visitors generated by the development during the 2-week period for Ching Ming and Chung Yeung Festivals would be around 6,555. The chartered ferry service had agreed to support and cater for such demand;
 - (iii) the service run by the existing ferry operator had the capacity of handling over 1,500 visitors per day, upon prior arrangement;
 - (iv) the use was entirely compatible with the surrounding. The representer was willing to work closely with Green Groups to plant more trees for migratory birds, improve trekking and facilities for visitors to the Po Toi;
 - (v) the memorial garden could address the territorial-wide shortfall of niches and would provide an alternative built form for such facilities in Hong Kong. The villagers would be able to enjoy improved facilities and employment opportunities. Trekkers would still be able to enjoy the tranquil environment and birds

might keep coming;

- (vi) the columbarium was an ‘EU’ which was in existence before the DPA plan. It was the Board’s role to facilitate the land owners’ rights for using the land in a reasonable and lawful manner; and
- (vii) the lot was under Block Crown Lease by which the lot could be used for any purpose other than building as confirmed in the Melhado case (Attorney General vs Melhado Investment Ltd.).

15. With the aid of a video presentation, Miss Y.Y. Pong showed the existing conditions of Po Toi Islands including burial sites, location of the site and its surrounding areas. She concluded that providing 2,850 ground niches was a perfect solution to alleviate the demand for niches.

C1240 – Donny Ng

C1260 - 李國新

C1274 - 李金珍

16. Ms Donny Ng made the following points on behalf of 李國新 and 李金珍 :

- (a) 李國新 was an indigenous villager of Po Toi and always lived in the island since birth. The island was lacking basic facilities. As there was no undersea nor overhead cables, only electricity generator could be used to supply electricity. The power supply was not stable and thus he could not use all electrical appliances at the same time. There was also no fresh water supply and he needed to carry water buckets to get water from the three small water tanks installed at Tai Wan via a long and rugged path and back to his home at Wan Tsai. He could only get low income jobs such as repairing, cleaning, cutting grass. Should development be permitted in Po Toi, he hoped to find a better paid job to improve his living environment; and

- (b) 李金珍 was the wife of 李國新 and lived in Po Toi since her marriage 10 years ago. Being a housewife, the unstable power and water supplies led to serious hardship in her daily life. With only a small refrigerator, there was problem of keeping food fresh. The ferry service was also limited and she had to stay at other places once she missed the ferry. If development would be allowed in Po Toi and they could be provided with electricity, she would then be able to buy different types of food for her family.

C1251 - 劉淑薇

C1259 - 劉淑儀

C1264 - 劉金蓮

17. Ms Yau Ming Chu made the following points on behalf of 劉淑薇, 劉淑儀 and 劉金蓮:

- (a) they were three sisters operating a small store in Po Toi. With no water supply, they had to carry water in buckets and use limited water in washing and cooking. Besides, the unstable power supply had made the operation of the store difficult. There were constraints in relying on the limited ferry service and they could not make bulk purchase to meet the demand of the visitors. There were also suspicions from the visitors on the food safety with limited water supply. The public toilet was also not convenient and without a flushing system; and
- (b) as people living in Po Toi had to face so many constraints and difficulties, they would like to request the Government to provide water and power supplies to the island. They would welcome development in Po Toi as it would increase the number of visitors and business opportunity. They would further request the Government to consider providing a sewerage system so that they could have toilets with a flushing system.

18. As the presentation from the representatives/commenters or their representatives was completed, the Chairman invited questions from Members.

The proposed columbarium at R9's site

19. A Member said that according to figure 6A in R9's written submission, half of the site would be retained as its existing state. The Member asked whether there would be any planned expansion for the proposed columbarium development in the future and whether there would be any boundary fencing for the proposed development. In response, with the aid of the PowerPoint slide, Ms Anna S.Y. Kwong said that the concerned part would be reserved for a butterfly garden and as that part of the site was mainly steep slopes, it was considered not suitable for columbarium development. While the existing vegetation would be preserved for visitors and trekkers to view the butterflies, additional trees were proposed to provide shelter and food for birds and butterflies. According to the current design, there would be no fence wall at the site.

The written enquiry of R10

20. In response to a Member's question on the written enquiry, Mr Mak Chi Yeung said that R10 had written to both PlanD and LandsD in 2011 enquiring the development restrictions on the site and the replies from both departments did not mention that the development of a memorial garden was not permitted. It was not until the media reports in February 2012 that brought public interests and attention of government departments. Mr Ivan M.K. Chung said that when a reply was given to R10 in October 2011, Po Toi Islands were not covered by any statutory plan. As such, there was no statutory planning control regarding R10's proposal at that time.

'Existing Use'

21. As regards the issue on 'EU' raised by Members, Mr Chung said that activities involving vegetation clearance and laying of concrete slabs were reported at R10's site in late 2011. To prevent any haphazard and uncontrolled development affecting the rural and natural character of the islands, a DPA plan was prepared for the Po Toi Islands and

published on 2.3.2012. An existing use survey was conducted by PlanD during the preparation of the DPA plan and only concrete slabs were identified on the site then and no columbarium use had been observed. According to the Ordinance, ‘EU’ in relation to a DPA plan meant a use of a building or land that was in existence immediately before the publication in the Gazette of notice of the draft plan of the DPA. The onus of proof of ‘EU’ rested on the person who intended to claim an ‘EU’ right.

22. Mr Mak said that 1,158 concrete slabs were laid on the private lots of R10 before the DPA plan was first published on 2.3.2012. They had ceased development works on the site according to a Notice issued by LandsD in February 2012. No further development works had been undertaken since the publication of the DPA plan. During the site inspection conducted by FEHD on 18.6.2014, ashes were found underneath the concrete slabs. Nonetheless, there was currently no scientific test to prove the exact types of ashes that were found. He further said that although the Town Planning Board Guidelines No. 24C was issued on interpretation of existing use in the urban and new town areas, it was not a statutory document. The existing use claim should follow the provisions in the Ordinance, which meant a use of a building or land that was in existence immediately before the publication in the Gazette of notice of the draft plan of the DPA. He advised that none of the ground niches had yet been sold or rented out. There was currently no identification on the slabs as those usually had in the existing columbarium developments.

23. Mr Chung said that the OZP was published in 2015. The site inspection was conducted by FEHD in 2014 when the DPA plan was in force. The R10’s site fell within areas zoned “Unspecified Use” in the DPA plan in which ‘Columbarium’ use required planning permission from the Board. As stated in paragraph 6.32 of the Paper, a Private Columbaria Licensing Board would be set up upon the enactment of the Private Columbaria Bill (the Bill) to serve as the licensing authority. A Notification Scheme was launched on 18.6.2014 to collect information on the operational particulars of the private columbaria, and R10 had joined the Notification Scheme. It would be up to the licensing authority to determine whether a site should be accorded a pre-Bill columbarium based on the collected information as well as any further information that might be required. As such, whether the development at R10 would be accorded a pre-Bill columbarium status could not be ascertained at present.

24. Ms Kwong confirmed that the proposed columbarium development at R9's site had not yet been implemented.

Lease Aspects

25. As regards the lease aspects, Mr Chung said that the private land of R9 was mainly building lots (about two-third) with a maximum floor area of about 1,800m², and the remaining one-third of the land was agricultural lots. The private land of R10 was mostly agricultural lots without building entitlement.

26. Mr Mak said that the memorial garden of R10 would be ground niches and no building structure would be required. The layout of ground niches was arranged in a spacious manner. There would be no fence wall at the site.

Traffic Aspects

27. In response to Members' questions relating to the traffic impact assessment (TIA) and ferry capacity, Mr. Kelvin C.W. Leung said that the TIA of R9 had included only the existing and planned developments. As it was not expected to have future expansion for the proposed columbarium, only the additional trips generated by the 5,000 niches of the proposed columbarium at the R9's site were taken into account. The ferry services would be able to increase its frequency to every 30 minutes or even every 15 minutes. The existing operator of the ferry service had a fleet of vessels of different sizes. Field survey had shown that they were using vessels of seating capacities ranging from 300 to 400 persons. As such there was spare capacity of the ferry service to cater for the proposed columbarium development. Ms Kwong supplemented that the operator of the proposed columbarium had agreed with the existing ferry operator to improve the schedule of ferry services upon implementation of the proposed development at R9's site.

28. In regard to question on comments of the Transport Department (TD) on the TIA, Mr Chung said that TD advised that under the current arrangement, the maximum carrying capacity of the two ferry vessels officially deployed for the ferry service (kaito) for Po Toi was 186 and 141 respectively. The ferry operator should apply for TD's approval for

deploying other vessels to the existing ferry services. TD considered that the assumed trip rates, the level of service assessment, as well as a maximum capacity of 432 in the TIA were not justified. The TIA had therefore not demonstrated that traffic impact of the proposed development would be acceptable.

29. In response to a Member's question on whether private ferry service would be provided by the columbarium operator, Mr Mak said that they would not rule out the possibility at the current stage as columbarium was a lucrative business. As noted from a photo in the PowerPoint slide of PlanD, a Member raised concern on the double parking of ferries at the pier and the need for passengers to board a ferry via another vessel. In response, Mr Mak advised that the double parking was only for waiting purposes and not for boarding of passengers.

The proposed “OU (Columbarium)” zoning

30. In response to a Member's question on development control and design restriction for the proposed “OU (Columbarium)” zone, Mr Chung said that both representatives had not submitted any specific details on the development control for the proposed “OU” zone for the Board's consideration. However, with reference to some OZPs currently in force, planning permission from the Board could be required for columbarium development within the “OU (Columbarium)” zone in order to ensure proper control and monitoring and relevant departments' requirement could be imposed through approval conditions.

Permitted Burial Grounds

31. In response to a Member's question on the existing burial grounds, Mr Chung, with the location plan of the two permitted burial grounds in Po Toi shown on the visualizer, said that the permitted burial grounds were for burial of the deceased indigenous villagers and fishermen in the Area but he did not have any information on the capacity of the existing permitted burial grounds which were administered by the District Officer/Islands, Home Affairs Department (DO/Is, HAD). He understood that villagers needed to obtain a certificate from the relevant District Offices for burial activities within the permitted burial grounds. The indigenous villager status of the deceased would be verified before issuing the

burial certificate. He did not have any information on the fee charged, if any. Some graves found outside the permitted burial grounds were mostly on government land.

Other Aspects

32. A Member raised concern on fire hazard of the proposed memorial garden and columbarium development as there was no water supply in Po Toi. In response, Mr. Mak said that no burning of rituals activities would be allowed within R10's site. As the ground niches would be arranged in a spacious manner and sufficient space had been reserved for internal circulation and passageway of visitors, it would be easy to manage the activities on the site and to cope with the emergency situation. Ms Kwong said that no furnace would be built on the site of R9. They would state in the future rental or sales agreement that no burning of rituals activities would be allowed within the site. A small management office would be provided in the site manned by professionals experienced in columbarium operation. It would help to provide employment opportunity for the local villagers as well.

33. Mr. K.K. Ling, the Director of Planning said that there were currently insufficient public facilities in Po Toi. He asked how public facilities would be enhanced and the living environment could be improved after the development of the proposed columbaria. He also asked whether the representatives had approached the utility companies to confirm arrangement for improvement on provision of their services to Po Toi. In response, Mr Mak said that public utility providers did not usually provide services for a private project. However, since early 2015, R10 had offered to provide support and subsidies to the villagers on water and electricity supplies. They had also tried to consult villagers on what types of facilities they required by posting notice in the village. Mr Mak further said that R10 had intended to set up a management fund for maintenance and operation of the columbarium development. They would be willing to support the provision of local infrastructure and contribute to the general welfare of the residents of Po Toi, using part of the management fund. Ms Kwong supplemented that there would be two funds for the proposed development at R9's site, one for operation of the proposed columbarium development and one for charity.

34. In response to the sewerage and drainage issues, with the aid of PowerPoint slides, Ms Kwong showed the drains of the existing house structures, which disposed

untreated effluence directly into the sea. Mr. Ted Yui supplemented that there would be provision of septic tanks for the proposed columbarium development at R9's site.

35. As the representers/commenters or their representatives of Group 1 had finished their representations and Members had no further questions to raise, the Chairman said that the hearing procedures for Group 1 had been completed and the Board would deliberate on the representations and the comments in their absence and would inform them of the Board's decision in due course. The Chairman thanked them and PlanD's representatives for attending the hearing. They all left the meeting at this point.

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

[Dr W.K. Yau left the meeting at this point.]

Group 2 Hearing

Representations No. R1 to R6 and R11 to R813 and Comments No. C1 to C1201 and C1320 to C1462

36. The following government representatives, and the representers/commenters or their representatives were invited to the meeting at this point:

Mr Ivan M.K. Chung - DPO/SKIs, PlanD

Mr Richard Y L Siu - STP/Is(1), PlanD

Mr Cary P.H. Ho - SNCO(S), AFCD

Mr Edward F.M. Yuen - CO(SI), AFCD

R1 - Ms Kong Choi Ping

Ms Kong Choi Ping - Representer

R4 - Association for Geoconservation

Ms Cindy Choi - Representer's Representative

R6 - 蒲台島村公所工作關注組

Mr Law Sing]
Mr Leung Chun Man]
Mr Chan Chiu Cheung]
Mr Lai Chak Sum]
Ms Kwok Yee Chu]
Mr Cheung Muk Shi]
Ms Kwok Ngan Ying]
Mr Cheung Wai Ming]
Mr Leung King Wai]
Mr Lau Siu Ming]
黃喜仔]
梁金勝	l

R11 - The Conservancy Association

C373 - Ng Hei Man

Mr Wick Leung Tak Ming - Representer/Commenter's Representative

R12 - Hong Kong Wild Bird Conservation Concern Group

R13/ C1 - Hong Kong Bird Watching Society

R40 - Fung Po Yee

R192 - Cecilia Kwan

R196 - Winnie Ching

R208 - 胡小姐

R291 - 楊莉琪

R351- YW Chung

R439 - Tao Oi Yan

R618 - Calie Tsang

R664 - Sonny Chan

R710 - Mak Hei Man

R739 - 李鍾海

R762 - Candy Lo

C484 - Chan Kang Ming

C549 - 陳穎珊

C927 - 胡小姐

C1180 - Lee Ka Lam

Hong Kong Bird Watching Society - Representers/Commenters'
(Represented by Mr Yu Yat-tung) Representatives

Mr Geoff Welch

Ms Woo Ming Chuan)

R15/ C2 - World Wide Fund for Nature Hong Kong

Mr Andrew Chan - Representer/Commenter's
Representative

R16 - Kadoorie Farm & Botanic Garden Corporation

Mr Nip Hin Ming - Representer's Representative

R17 - Green Sense

Ms Ho Ka Po - Representer's Representative

R18 - Mr Ruy Barretto

Mr Ruy Barretto - Representer

C391 – Leung Fung Yin

C1329 - Leung Ming Yiu

C1330 - Leung Choi Ha

C1443 - Leung Mei Ting

Ms Leung Fung Yin - Commenters' Representative

C733 - Christina Chow

Ms Christina Chow - Commenter

C1191- Tang Hon Tong

Mr Tang Hon Tong - Commenter

C1320 - Alliance for the Concern over Columbarium Policy

Tse Sai Kit - Commenter's Representative

37. The Chairman extended a welcome and explained the procedures of the hearing. He said that to ensure the efficient operation of the meeting, each representer/commenter or their representatives would be allotted 10 minutes for making oral submission. The representers/commenters had been informed about the arrangement before the meeting. There was a timer device to alert the representers/commenters and their representatives 2 minutes before the allotted time was to expire, and when the allotted time limit was up. The Chairman then invited the representatives of PlanD to brief Members on the representations.

38. With the aid of a PowerPoint presentation, Mr Richard Y. L. Siu, STP/Is(1), made the following main points as detailed in the Paper:

Background

- (a) on 27 February 2015, the draft Po Toi Islands OZP No. S/I-PTI/1 was exhibited for public inspection under section 5 of the Ordinance, a total of 813 representations and 1,462 comments on representations (comments) were received;
- (b) on 25 September 2015, the Board decided to consider all the representations and comments in two groups :
 - (i) Group 1: four representations (R7 to R10) by a member of the IsDC (R7), two landowners (R9 and R10), and an individual (R8) and 118 comments (C1202 to C1319) by two landowners and

individuals. All opposing the draft OZP;

- (ii) Group 2: 809 representations with five from green group (R4) and individuals (R1 to R3 and R5) supporting the OZP, and 804 from green/concern groups (R6 and R11 to R17) and individuals (R18 to R813) opposing the draft OZP; and 1,344 comments from green/concern groups (C1 to C4) and individuals (C5 to C1201 and C1320 to C1462) opposing the draft OZP;

Major Grounds of Group 2 Representations

- (c) the major grounds of the representations as summarised in paragraph 2.4 (a) to (l) of the Paper were highlighted below:

Ecological and conservation values of Po Toi

- (i) mature woodlands on Po Toi provided an important stopover and refuge site for migratory birds;
- (ii) Po Toi supported a natural population of many endemic/endangered species; and
- (iii) PlanD had muddled up, misinterpreted and obscured the data regarding the conservation value of Tai Wan;

Education and recreational development within the “CA” zone

- (iv) development of education and recreational facilities might involve removal of trees, and would threaten Po Toi as a crucial refuelling stop for migratory birds; and
- (v) permitting development of such facilities was not in line with the planning intention of the “CA” zone which was to impose stringent

planning control for conservation purpose;

“Residential (Group D)” (“R(D)”) zone boundary and residential development in Po Toi

- (vi) zoning Tai Wan, the core area of conservation value, as “R(D)” was unjustified;
- (vii) residential development within the “R(D)” zone would threaten migratory birds. That was particularly the case for redevelopment or addition/alteration/modification to existing houses as it did not require planning permission from the Board and ecological impact assessment;
- (viii) the “R(D)” zone was excessive as compared to the footprint of existing structures;
- (ix) permitting new residential development in the “R(D)” zone was inappropriate given the conservation value of the area; and
- (x) as redevelopment of house might be permitted within “CA” zone on application to the Board, the “R(D)” zone was not necessary;

V” zone boundary

- (xi) the “V” zone encroached upon a crucial mature woodland habitat for migratory birds and a valley containing sensitive water body;
- (xii) it was doubtful in the way the Small House demand was estimated given the absence of Village Representative from Po Toi Village; and
- (xiii) over-estimation of Small House demand would attract application

from southern Lamma, thereby increasing the burden of Small House development in Po Toi;

Others

- (xiv) the draft OZP had no specific mechanism to protect the woodlands that supported migratory birds;
- (xv) zoning vast tracts of land at Ngong Chong for burial activities was not necessary as it was too remote and therefore rarely been used; and
- (xvi) tolerating existing burial grounds under the draft OZP would encourage ‘destroy first and build later’ for other areas to be covered by DPA Plans;

Representers'Proposals

- (d) the major proposal of the representers as summarised in paragraphs 2.4 (m) to (x) of the Paper were highlighted below:

Proposals relating to the “CA” zone

- (i) to delete all statements related to education/recreational development with overnight accommodation within the “CA” zone in the OZP;

Proposals relating to the “R(D)” zone

- (ii) to rezone the whole “R(D)” or the portion covered with woodland within the “R(D)” zone to “CA” zone;
- (iii) to limit the “R(D)” zone to areas covered by existing structures

only;

- (iv) to relocate the “R(D)” zone to areas with less mature trees/lower ecological sensitivity; and
- (v) to amend the Notes of the “R(D)” zone by moving ‘House (Redevelopment, Addition, Alteration and/or Modification to existing house only)’ from Column 1 to Column 2 and delete all Column 2 uses under “R(D)” zone and only redevelopment of existing structures would be permitted;

Proposals relating to the “V” zone

- (vi) to reduce the size of the “V” zone to avoid the mature trees along its northern periphery and the stream to its northeast;
- (vii) to amend the Notes of the “V” zone by moving ‘House (New Territories Exempted House only)’ from Column 1 to Column 2 uses and deleting all Column 2 uses; and
- (viii) to rezone the whole “V” to “CA”;

Other Proposals

- (ix) to designate the area around Wan Tsai, the “R(D)” zone on Po Toi, or Po Toi or all the Po Toi Islands as “Site of Special Scientific Interest” (“SSSI”);
- (x) to designate Po Toi/Po Toi Islands as Country Park;
- (xi) to introduce tree felling control clauses to the Notes of the OZP;
- (xii) to delete ‘Columbarium’, ‘House’ and ‘New Territories Exempted

House' from Column 2 uses under "GB" zone;

- (xiii) to enlarge the "GB" zone near Tai Wan Pier and to reduce the "GB" zone at Ngong Chong; and
- (xiv) to expand the "V" zone;

Comments on Representations

- (e) Group 2 comprised 1,344 comments (C1 to C1201 and C1320 to C1462) supporting the adverse representations and proposals made by green/concern groups, and opposing representers R9 and R10's proposal to rezone the representation sites for development of memorial gardens and columbarium. C1 to C4 and C1320 to C1461, in particular, objected to R9 and R10's proposal to rezone the sites for development of columbarium as they would destroy the natural environment and the habitats for migratory birds in Po Toi;

The Representation Sites and their Surrounding Areas

- (f) Po Toi Islands comprised a group of islands including mainly Po Toi, Mat Chau, Beaufort Island, Sung Kong and Waglan Island having a rural and natural setting with scientific importance and conservation value;
- (g) the representation sites in respect of the "R(D)" were located to the west of the ferry pier and was occupied mainly by one- to two-storey temporary structures. Most of the structures were occupied while some were ruins;
- (h) the representation sites in respect of the "V" zone was situated to the southwest Tai Wan with one- to two-storey tenement houses; and
- (i) the sites of R9 and R10 were located at Wan Tsai in southwest Po Toi and were accessed via a footpath leading to the Po Toi Public Pier at the

northwest of the sites. The sites were currently covered by vegetation with traces of concrete slabs on the ground at the site of R10.

[Mr Philip S.L. Kan returned to join the meeting at this point after the break.]

Responses to Representations and Proposals

- (j) the responses to grounds of representations and representers' proposals of Group 2 as detailed in paragraphs 6.17, 6.22 to 6.29, and 6.33 to 6.43 of the Paper were summarized below :

Ecological, conservation and heritage values of Po Toi

- (i) PlanD had taken into account the habitats of high ecological/scientific values, as well as landscape character, local topography, site characteristics, stakeholders' views and concerned departmental advice during the formulation of the draft OZP;
- (ii) the general planning intention of the draft OZP was to conserve the areas of high ecological significance. The designation of "CA", "CPA" and "GB" zones on the draft OZP had duly reflected that intention; and
- (iii) DAFC supported the designation of "CA" zoning and had no objection to the designation of "CPA" and "GB" zones;

Concerns on education and recreational development within the "CA" zone and proposals relating to the "CA" zone

- (iv) the Notes of the "CA" zone generally followed the MSN so as to allow flexibility for provision of different facilities that might be compatible with the surrounding area for public use; and

- (v) uses that might impose adverse impacts on the surroundings (e.g. Holiday Camp) had been put in Column 2 uses in the Notes where planning application to the Board would be required;

“R(D)” zone boundary, and proposals relating to the “R(D)” zone

- (vi) various factors including land status, conservation of the ecological value in the Area, locations of existing domestic structures/squatters and site characteristics had been considered in the delineation of the “R(D)” zone;
- (vii) both AFCD and EPD had no objection to the boundary of the “R(D)” zone;
- (viii) the Notes of the “R(D)” zone generally followed the MSN; and
- (ix) planning application to the Board would be required for new house development within the “R(D)” zone. Each application would be considered based on its own merits taking account of the prevailing planning circumstances;

“V” zone boundary and proposals relating to the “V” zone

- (x) Small House demand was only one of the various factors considered in drawing up the “V” zone boundary;
- (xi) an incremental approach had been adopted for designating “V” zone for Small House development with a view to minimising adverse impacts on the natural environment and the limited infrastructure in Po Toi;
- (xii) mature woodland to the north of Po Toi Village had been excluded from the “V” zone boundary after considering the public and

government departments' comments during the plan formulation stage;

(xiii) under the prevailing land policy, the indigenous inhabitants in southern Lamma could build Small House in Po Toi only if they had obtained private land thereat;

(xiv) sufficient land had been reserved for Small House development in southern Lamma;

(xv) the proposal to revise the Notes of the “V” zone was not appropriate as it generally followed the MSN;

(xvi) uses that might impose adverse impacts on the surroundings had been put in Column 2 uses in the Notes where planning application to the Board was required; and

(xvii) there were existing mechanisms administered by LandsD to regulate Small House development;

Other Proposals

(xviii) designation of Po Toi Islands as “SSSI” and/or Country Park :

- the planning intention to conserve Po Toi Islands had been clearly reflected in the conservation zonings designated on the draft OZP;
- the designation of Po Toi Islands as “SSSI” was subject to detailed study; and
- the designation of Country Park was under the jurisdiction of the Country and Marine Parks Authority which was outside the

purview of the Board;

(xix) lack of mechanism to protect the mature woodland and control of tree felling :

- mature woodland with high scientific and ecological values had been zoned “CA” for conservation purpose;
- there were existing mechanisms to control felling of trees:
 - government land: Development Bureau Technical Circular (Works) No. 10/2013, “Tree Preservation”;
 - private Land: land lease conditions and Lands Administration Office Practice Notes (LAO PN) No. 7/2007, “Tree Preservation and Tree Removal for Building Development in Private Projects”; and
- in approving planning applications, the Board could impose relevant conditions on tree preservation;

(xx) burial grounds in the “GB” zones and proposals relating to the “GB” zone :

- burial activities within the permitted burial grounds were administered by DO/Is, HAD;
- should unauthorised development be found, enforcement action would be instigated under the Ordinance as appropriate; and
- the Notes of the “GB” zone generally followed the MSN which allowed flexibility for provision of different facilities that

might be compatible with the surrounding area for public use;

PlanD's Views

- (k) PlanD noted the supportive views of R1 to R5, did not support the remaining views of R1 to R5 and the representations of R6 and R11 to R813 representations, and considered that the draft OZP should not be amended to meet the representations.

R1 - Ms Kong Choi Ping

39. Ms Kong Choi Ping made the following main points:

- (a) she opposed the memorial garden development in Po Toi. Although she was not a resident of Po Toi, her grandfather was a fisherman living there. She and her family went to Po Toi every year during the Tin Hau Festival and year-end offering ceremony;
- (b) she knew about the proposed memorial garden development in Po Toi three years ago. Should the proposal be approved, Po Toi would be turned into 'a thousand graves island';
- (c) Po Toi had potentials for tourism development. The island was full of amazing rock features such as the Coffin Rock, Tortoise Rock, Monk Rock, Buddha's Palm cliff, and Seashell Rock, etc. which were of high geological value and were as attractive as those famous rocks in Taiwan and Australia. The only constraint for tourism development in Po Toi was the lack of power and water supplies;
- (d) after she met the friends of the Bird Watching Society, she knew that there were so many birds flying to Po Toi. As Hong Kong became so densely built up, places for migratory birds to stopover should be preserved; and

- (e) she requested the Board not to support the memorial garden development.

R4 - Association for Geoconservation

40. With the aid of a PowerPoint presentation, Ms Cindy Choi made the following main points:

Invaluable Natural Geological Heritage with High Aesthetic Value

- (a) Po Toi was an excellent outdoor geological classroom showcasing typical landforms of granite with intrusion and geological features of high aesthetic value in one small island;
- (b) Po Toi was of local and international interests and was best for ecological and geological conservation, education and sustainable development;
- (c) the granitic plutons of Hong Kong were 140 million years old comprising typical unique granitic landforms. Without an OZP covering the Area, there would be illegal destruction and unscrupulous digging resulting in a ecological and geological disaster;
- (d) there were various possible choices of development for Po Toi :
 - for tourism development, sightseeing the natural ecological and geological features or for development of columbarium/memorial garden with densely populated village settlement;
 - local community sustainable eco/geo tourism business or business only during Ching Ming and Chung Yang Festivals; and
 - a unique natural Po Toi attraction or urban development common in other parts of Hong Kong;

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

- (e) the Association supported the draft OZP which adopted a holistic approach in protecting Po Toi Islands for its high and unique ecological, geological, geomorphological, historical and cultural values. They also supported the current “CA” zonings and considered that the “CA” zone should be expanded to cover all mature trees/woodland which were the key habitat for the birds and that would not limit future developments and opportunities for tourism. They proposed to rezone the “R(D)” zone to “CA” which would also allow redevelopment of existing houses;
- (f) the Association strongly objected to the rezoning of the “CA” zone for the development of memorial gardens and columbarium which had abused existing use right and was a ‘destroy first, develop later’ case;
- (g) the “V” zone should not be expanded to Wan Tsai area and the current proposed “V” zone and “R(D)” zone would increase human disturbance to the surroundings, cause water pollution and public health problem by the sewage runoff;
- (h) the Association proposed to designate the Po Toi Islands as Country Park as nowhere else in Hong Kong had such high ecological, geological and cultural value found in one small island;
- (i) ecotourism and geotourism would be the best approach which would enable conservation and sustainable economic development of local communities and other stakeholders, and not just benefiting a small group of property developers.

R6 - 蒲台島村公所工作關注組

41. Mr Leung Chun Man, the Chairman of the Po Toi Village Office, said that as an indigenous villager of Po Toi, he objected to the proposed columbarium and memorial garden

development. The laying of concrete slabs in Po Toy would affect the tourism development of Po Toi.

42. Mr Chan Chiu Cheung said that as an indigenous villager of Po Toi, he would like to express his feeling about land use changes in the sites of R9 and R10. The two sites were previously proposed for holiday houses and the villagers were informed of the design/layout of the proposed scheme. They had been looking forward to the implementation of the proposal. Recently, the proposal was changed to columbarium which was for the deceased. The new proposal was unacceptable and he opposed the proposed columbarium.

43. Mr Lai Chak Sum, an indigenous villager of Po Toi, said that he supported the draft OZP and opposed the proposed columbarium.

44. Ms Kwok Yee Chu said that she had lived in Po Toi for a long time but had to move out from the island because of her children's education. Po Toi was not known to many Hong Kong people in the early 1970's. She was happy to see more and more people knew about Po Toi and there were many visitors attracted to Po Toi. Local meetings had been held and many residents did not accept the proposed columbarium development. Though the developers of the columbarium had offered subsidies in the provision of water and power supplies to Po Toi, she considered that provision of the basic facilities should be the responsibility of the Government. She would like to demand the Government to improve the footpath from the restaurant at Tai Wan Tsuen leading to the pier to a barrier-free access to cater for emergency.

45. Mr Law Sing said that the proposed columbarium development would destroy the natural environment of their home land. They would not abandon their native home in lieu of the provision of public facilities proposed by the developers. The objective of setting up the Concern Group for Po Toi was to support the draft OZP and the "CA" zone, as well as to oppose the columbarium development.

R11 - The Conservancy Association

C373 - Ng Hei Man

46. With the aid of a PowerPoint presentation, Mr Wick Leung Tak Ming made the following main points:

- (a) Po Toi Island was unique for its natural environment with minimal human disturbance, and provided a resting and foraging habitat for migratory birds of East Asia-Australian Flyway. There were 328 species recorded on Po Toi Island. It required more efforts in planning control similar to other bird hotspots such as Mai Po and Tai Po Kau which were special areas, and Long Valley which was a nature park;
- (b) the ecological treasure trove also contained the endemic Romer's Tree Frog (*Liuixalus romeri*), an "Endangered" species under IUCN Red List of Threatened Species; some rare floral species including Water Fern (*Ceratopteris thalictroides*), listed as wild plant under State protection (Category II); and the marine water between Po Toi and Beaufort Island contained various types of soft corals, gorgonians and black corals. According to the South West New Territories Development Strategy Review in 2001, the potential to designate Po Toi Islands as Country Park had been initially confirmed;
- (c) the "R(D)" zone was close to a pier and thus had been a hot spot for bird watching. Besides, mature and large trees up to 10m to 12m high including *Ficus microcarpa* were scattered within the zone. Some parts of the "V" zone were also covered by mature woodlands. As most of the woodlands were not within private lots and there was no need to zone the concerned area as "V". The aerial photos of Po Toi had shown that these mature woodlands were more than 40 years of age;
- (d) they had serious concern that ecologically important mature woodlands had been included in the proposed "V" and "R(D)" zones. According to a preliminary study on bird migration for Po Toi in 2007, the number of

bird species at Fung Shui tree and woodland scrub habitats was found to be doubled that found at bush scrub and grassland habitats (119 bird species as compared to 55 bird species);

[Mr Sunny L.K. Ho left temporarily and Mr Clarence W.C. Leung left the meeting at this point.]

- (e) during consideration of the draft OZP, PlanD had proposed to rationalise the boundary of the “V” zone by slightly moving southward to exclude the slopes and mature trees to reflect the ecological importance of the area (paragraph 4.1(b) of TPB Paper No. 9845). As Small House demand was only one of the various factors considered in drawing up the “V” zone boundary, they proposed to delete area zoned “V” which was covered by mature trees and rezone them to “CA”. According the usual practice, Small House demand forecast was provided by the relevant village representatives (VR). As it had been many years that Po Toi Village did not have a VR, the current forecast was provided by the LISRC to LandsD as stated in TPB Paper No. 9800. They had doubt on the relevance of the LISRC representing Po Toi Village to estimate Small House demand. Such estimation would affect the size of the “V” zone and it was not justified to include so many government land into the “V” zone;
- (f) paragraph 9.1.2 of the Explanatory Statement of the Po Toi OZP stated that the “R(D)” area “is mainly occupied by one- to two-storey temporary structures built years ago. Most of the structures are occupied while some are ruins”. However, it did not mention that there were also many mature trees and fruits trees;
- (g) according to the Planning Report produced by PlanD in 2014, LISRC had requested expansion of the “V” zone to Tai Wan and to allow development of holiday house to improve the livelihood of the local residents. The area near the pier was thus rezoned to “R(D)” in response

to the request. Redevelopment of Small House was permitted in the “R(D)” area even if it did not fall with the ‘VE’. The development of luxury house, Small House and holiday house would aggravate the problem of no water and power supplies and flushing facilities in Po Toi;

- (h) as ‘flat’ and ‘holiday house’ in the “R(D)” zone were Column 2 uses which would require planning permission from the Board, one might think that future approved developments would not bring about adverse ecological impact as they were subject to planning control. However, ‘House (Redevelopment, Addition, Alteration and/or Modification to existing house only)’ was a Column 1 use which was always permitted. Tree trimming and tree felling would be inevitable to facilitate development and would affect the woodland;
- (i) the planning intentions of “R(D)” and “CA” zones were different. The “R(D)” zone was intended for development and not for tree protection. Most of land within the “R(D)” zone were government land, only four small sites were private lots. It was the responsibility of the Government to act on public interest to avoid any potential impact on the ecology. It was thus proposed to move ‘House (Redevelopment, Addition, Alteration and/or Modification to existing house only)’ to Column 2 to strike a balance between development and conservation; and
- (j) besides, to better conserve the environment for birds, promoting bird watching and achieving long-term sustainable development, designation of Po Toi as Country Park would be a win-win solution for local residents, the general public and the nature.

R12 - Hong Kong Wild Bird Conservation Concern Group

R13/ C1 - Hong Kong Bird Watching Society

R40 - Fung Po Yee

R192 - Cecilia Kwan

R196 - Winnie Ching

R208 - 胡小姐

R291 - 楊莉琪

R351- YW Chung

R439 - Tao Oi Yan

R618 - Calie Tsang

R664 - Sonny Chan

R710 - Mak Hei Man

R739 - 李鍾海

R762 - Candy Lo

C410 - 鄭家榮

C484 - Chan Kang Ming

C549 - 陳穎珊

C927 - 胡小姐

C1180 - Lee Ka Lam

47. With the aid of a PowerPoint presentation, Mr Geoff Welch made the following main points on the importance and uniqueness of Po Toi:

- (a) Po Toi was the prime site in Hong Kong for migratory land birds and seabirds, equivalent to Mai Po for water birds and shore birds, and Tai Po Kau for forest birds. Every year, millions of land birds migrated between their breeding grounds in the north of East Asia to their winter grounds in the south. Migrating birds might fly 300 km in one flight and then took three days rest/feeding before the next flight. Birds used natural physical characteristics to guide their migration, often following the coastline;
- (b) there were about 1,440 Chinese Sparrowhawks being recorded within two hours in a day of 2010. A ringed Japanese Yellow Bunting which was on the IUCN Red List was found in Po Toi during the autumn of 2007. It had flown over 3000 km from Japan to Hong Kong;
- (c) the diversity of bird species in Po Toi was very high. The 328 species

recorded was more 60% of the Hong Kong total. The species were comparable to that recorded within the BirdLife's Important Bird and Biodiversity Areas (IBA) of Hong Kong such as Mai Po, Tai Po Kau, Shing Mun and Tai Mo Shan area. It had the richest diversity of bird species in Hong Kong on a species per area basis;

- (d) there were 20 rare species in the Hong Kong First Records from 2005 to 2015 found in Po Toi which were more than those of Mai Po and Tai Po Kau combined. There were at least 140 species considered as having conservation importance according to the assessment methods adopted under Environment Impact Assessment Ordinance (EIAO) and at least 172 species according to the appendices of Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and Bonn Convention on Migratory Species. Among them, eight species were listed as "Vulnerable", five were listed as "Near Threatened", and one was listed as "Endangered" on IUCN Red List. The BirdLife International had issued a letter supporting the scientific value and international importance of Po Toi;
- (e) the land bird migrants in Po Toi were mainly found around Tai Wan village, the vacant school, the pier and towards the south peninsular and Mo's Old House where Fung Shui and fruit trees were found. Most birds arrived Ngong Chong first and subsequently moving through the scrubland to the central area with large trees near Tai Wan and Wan Tsai which were the best feeding areas. As such, the area should be protected to preserve the ecological linkage between the landing point and the feeding area and not to be zoned "R(D)" for development; and
- (f) Po Toi's uniqueness was in terms of location and habitat. It was a magnet for migratory birds as it was an island located in the far south-eastern corner out into the South China Sea with favourable habitat such as trees with insects and fruits for rest and refuel of the birds on their migration journey. If the trees were gone, both the

number and species of birds would be declined and Po Toi would no longer be unique;

- (g) Po Toi deserved the highest level of protection in particular the tall trees around the village and ferry pier. The areas proposed for columbarium development were old rice fields with a seasonal river and the areas flooded every year. Flooding would probably occur even with the laying of concrete slab on the ground level.

48. With the aid of a PowerPoint presentation, Ms Woo Ming Chuan made the following main points on the biodiversity of Po Toi:

- (a) in addition to birds, there were amphibians and reptiles in Po Toi with at least three species of conservation importance, i.e. the globally endangered Romer's Tree Frog (*Liuixalus romeri*), globally vulnerable and nationally critically endangered Burmese Python (*Python bivittatus*), and Tree Gecko (*Hemiphyllodactylus sp.*) of regional concern;
- (b) the diversity of mammals and insect in Po Toi had been subject to detailed surveys and literature reviews. There were 92 species of butterflies recorded in Po Toi including Forget-me-not (*Catochrysops strabo strabo*), a very rare species. Marine mammals such as Finless Porpoise (*Neophocaena phocaenoides*) was regularly seen and even Humpback Whale (*Megaptera novaeangliae*) had been recorded in 2009;
- (c) Waglan Island and Lo Chau contained habitats for breeding terns and the waters surrounding the Po Toi Islands were important foraging areas for breeding terns;
- (d) the Po Toi Islands were of high ecological value including many species of conservation interest and globally endangered Yellow-breasted Bunting; and

- (e) in addition to ecological value, Po Toi was of other multiple values including geological, landscape, cultural, recreational and educational.

[The meeting was adjourned for lunch break at 12:55 p.m.]

49. The meeting was resumed at 2:15 p.m.
50. The following Members and the Secretary were present in the afternoon session.

Mr Michael W.L. Wong Chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Dr W.K. Yau

Dr Wilton W.T. Fok

Mr Sunny L.P. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Principal Environmental Protection Officer (Strategic Assessment)
Environmental Protection Department

Mr Victor W.T. Yeung

Director of Lands

Ms Bernadette H.H. Linn

Chief Engineer (Works), Home Affairs Department

Mr Martin W.C. Kwan

Director of Planning

Mr K.K. Ling

Sai Kung and Islands District

Agenda Item 1 (cont'd)

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Representations and Comments in respect of Draft Po Toi Islands Outline Zoning Plan No. S/I-PTI/1
(TPB Paper No. 10017)

[The item was conducted in Cantonese and English.]

Group 2 (cont'd)

Representations No. R1 to R6 and R11 to R813

Comments No. C1 to 1201 and C1320 to 1462

Presentation and Question Sessions

51. The following government representatives, representers, commenters and their representatives were invited to the meeting at this point.

Mr Ivan M.K. Chung - DPO/SKIs, PlanD

Mr Richard Y.L. Siu - STP/Is(1), PlanD

Mr Ho Ping Ho, Cary - SNCO (S), AFCD

Mr Yuen Fai Ming, Edward - CO (SI), AFCD

R6 - 蒲台島村公所工作關注組

Mr Law Sing]

Mr Lai Chak Sum]

Ms Kwok Ngan Ying]

Mr Leung King Wai]	Representer's Representatives
Mr Lau Siu Ming]	
Ms Kwok Yee Chu]	
黃喜仔]	
梁金勝]	

R11/C373– The Conservancy Association

Mr Leung Tak Ming, Wick - Representer's Representative

R12 – Hong Kong Wild Bird Conservation Concern Group

R13/C1 – Hong Kong Bird Watching Society

R40 – Fung Po Yee

R192 – Cecilia Kwan

R196 – Winnie Ching

R208 - 胡小姐

R291 - 楊莉琪

R351 – Y.W. Chung

R439 – Tao Oi Yan

R618 – Calie Tsang

R664 – Sonny Chan

R710 – Mak Hei Man

R739 - 李鍾海

R762 – Candy Lo

C410 - 鄭家榮

C484 – Chan Kang Ming

C542 - 陳穎珊

C927 - 胡小姐

C1180 – Lee Ka Lam

Hong Kong Bird Watching Society - Representer and Commenter,
(Represented by Mr Yu Yat Tung, and Representers and
Mr Geoff Welch and Commenters' Representatives
Ms Woo Ming Chuan)

R15/C2 - World Wide Fund for Nature Hong Kong

Mr Andrew Chan - Representer and Commenter's Representative

R16 - Kadoorie Farm & Botanic Garden Corporation

Mr Nip Hin Ming - Representer's Representative

R17 – Green Sense

Miss Ho Ka Po - Representer's Representative

R18 - Ruy Barreto

Mr Ruy Barreto - Representer

C391 – Leung Fung Yin

C1329 - Leung Ming Yiu

C1330 - Leung Choi Ha

C1443 - Leung Mei Ting

Ms Leung Fung Yin - Commenter and Commenters' Representative

C1191 – Tang Hon Tong

Mr Tang Hong Tong - Commenter

C1320 - 各界關注骨灰龕法案大聯盟

Mr Tse Sai Kit - Commenter's Representative

52. The Chairman extended a welcome and invited the presenters, commenters and their representatives to elaborate on their representations and comments.

R12 – Hong Kong Wild Bird Conservation Concern Group

R13/C1 – Hong Kong Bird Watching Society

R40 – Fung Po Yee

R192 – Cecilia Kwan

R196 – Winnie Ching

R208 - 胡小姐

R219 - 楊莉琪

R351 – Y.W. Chung

R439 – Tao Oi Yan

R618 – Calie Tsang

R664 – Sonny Chan

R710 – Mak Hei Man

R739 - 李鍾海

R762 – Candy Lo

C410 - 鄭家榮

C484 – Chan Kang Ming

C542 - 陳穎珊

C927 - 胡小姐

C1180 – Lee Ka Lam

(cont'd)

53. With the aid of a PowerPoint presentation, Ms Woo Ming Chuan continued to make the following main points:

Ecological and conservation value

- (a) the general planning intention of the Po Toi Islands OZP, which was to conserve the areas of high ecological significance, and to protect the unique landscape, rural and natural characters of the Po Toi Islands (the Area) including mainly Po Toi, Mat Chau, Beaufort Island, Sung Kong and Waglan Island, was supported by the Hong Kong Bird Watching Society (HKBWS);
- (b) HKBWS was glad to note that the Explanatory Statement (ES) of the OZP had clearly stated, inter alia, that the Area was of scientific importance and conservation value which was unique in Hong Kong; and the coastal areas of Tai Wan and Wan Tsai, which were covered with coastal woodland vegetation including large native mature trees, served as a significant

ecological resource to sustain the migratory birds;

- (c) in order to safeguard all mature trees and woodland in Po Toi, a clause stating “*felling of trees on both private and government land should not be undertaken without the permission from the Town Planning Board*” should be added into the Notes of the OZP. That would help to ensure that the ecological value of Po Toi would not be affected by other developments;

Incompatibility of “R(D)” zone

- (d) the existing mature trees within “R(D)” zone, ranging from 10 to more than 40 years of age, together with other mature trees in the adjoining “CPA” and “CA” zones formed a natural and continuous stretch of woodlands which were an important foraging and roosting site for migratory birds. The designation of the area to the southeast of Po Toi Village (the concerned area) as “R(D)” was not appropriate;

[Mr Sunny L.K. Ho returned to join the meeting at this point.]

- (e) according to the Notes of the OZP, there were two planning intentions for “R(D)” zone. The first one was ‘for improvement and upgrading of existing temporary structures’ and the second one was ‘for low-rise, low-density residential development’. It was considered not necessary to designate the concerned area as “R(D)” since the need to improve the existing houses and the development of holiday houses were possible within the “CA” and “V” zone respectively through planning permission. Moreover, low-rise, low-density residential development was incompatible with the natural environment which was of high ecological value. The Board should not give false hope to anyone that the ecologically important area could be developed into a residential area. The designation of the concerned area as “R(D)” was incompatible with the ecologically sensitive habitats in Po Toi and the area should be rezoned to “CA”;
- (f) having regard to the high conservation importance of the concerned area,

‘conservation’ should be the only planning intention for the area. The “R(D)” zone was not necessary and the concerned area should be rezoned to “CA”;

Adverse impacts of the potential recreational development on the “CA” zone

- (g) the potential for development of education and recreational facilities with overnight accommodation in the area near Tai Wan Public Pier, as mentioned in the ES, was not in line with the planning intention of “CA” zone which had a presumption against development. Those facilities were neither needed to support conservation nor essential infrastructure projects that had an overriding public interest. As such, holiday houses should not be promoted within the “CA” zone;
- (h) HKBWS was concerned that allowing holiday house development within the “CA” zone would degrade the habitat quality therein and severely affect those important stop-over sites for migratory birds;
- (i) the Board was urged to remove all clauses/statements related to recreational development (with overnight accommodation) within the “CA” zone in the Notes of the OZP, so as to avoid any false impression that such development, which would cause adverse ecological impacts on Po Toi, was promoted and supported by the Board;

Comments on other representations

- (i) *Tourism potential was limited by conservation zonings*
- (j) she could not agree to other representers’ views that the current conservation zonings would limit future developments and opportunities for tourism. The remote location of Po Toi had helped to preserve the unique natural landscape and geological features of the area. According to the reviews of Po Toi at the TripAdvisor, it was noted that the natural and unspoilt landscape and environment of the island was highly attractive to the visitors;

(k) unlike Cheung Chau and Lamma Island, the lack of large-scale development and the limited amount of visitors had kept Po Toi intact for many decades thus contributed to the preservation of its natural and unique characteristics;

(l) the conservation zonings for Po Toi would preserve the existing natural environment and sustain its unique landscape and ecological resources for the enjoyment of future generations;

(ii) Expansion of “V” zone

(m) she objected to other representers' proposal to expand the “V” zone to the Wan Tsai area for the reason that mature trees and woodland immediately adjacent to the current “V” zone and in the Wan Tsai area were significant ecological resource to sustain the migratory birds;

(iii) Columbarium development

(n) the proposals of the two developers to rezone “CA” to “OU” annotated “Memorial Garden with Columbarium” and “OU” annotated “Columbarium” zones were not compatible with the tranquil rural setting of Po Toi and its spectacular geological features as well as its pristine natural environment;

(o) the proposed columbarium development, which would involve the burning of incense, paper offering and joss paper, might induce fire risk to the natural habitats. That would cause significant disturbance to the migratory birds as most of them were found in Po Toi during the Ching Ming and Chung Yeung festivals;

(p) even if there were no hill fires, the two columbaria with a total of 7,850 niches would attract a large amount of visitors to Po Toi which would significantly increase the human disturbances to the habitats on the island;

- (q) some photos taken in 2012 or earlier were shown to demonstrate that the laying of concrete slabs in Po Toi, which involved substantial tree felling and vegetation clearance, had destroyed the shrubland and seasonal wetland, resulting in loss of important habitats for many species including birds and tree frogs;
- (r) she supported PlanD's stance against the proposed columbarium development as detailed in paragraphs 6.30 and 6.31 of the Paper;

Recommendations

- (s) in view of the significant ecological and scientific value of Po Toi where rare or particular species of fauna and flora, as well as areas of geological, ecological or botanical/biological interest were found, the area should be designated as a “SSSI”. Under the “SSSI” zoning, some recreational facilities, such as ‘Field Study/Education/Visitor Centre’ and ‘Nature Trail’, might be permitted on application to the Board. It was considered that the “SSSI” zoning could balance the conservation, education and recreation need of Po Toi;
- (t) Po Toi Islands should ultimately be designated as a Country Park (CP) as this would provide better protection to the protected habitat through active patrolling and management by AFCD. Education and recreational facilities would also be operated and managed by AFCD. That would provide a better balance between conservation, education and recreation than the SSSI in that ecologically sensitive area. Although the designation of CP was outside the jurisdiction of the Board, the Board was urged to express its support to that recommendation;

Conclusion

- (u) the significant ecological and geological conservation values of Po Toi Islands were well-recognised in the representations by various individuals and green groups. Over 7,000 people including local villagers participated in an online petition raising objection to the draft OZP and

urging for better protection of the Po Toi Islands. The high conservation and scientific value of Po Toi was also recognised by Birdlife International. That clearly indicated the need to adequately protect the Po Toi Islands which was in line with the public interest, both locally and regionally;

- (v) the current OZP covering the Po Toi Islands were different from other statutory plans for the Country Park Enclaves or other rural area. Po Toi Islands had a rural and natural setting with scientific importance and conservation value which was unique in Hong Kong. The native mature trees and woodlands were an ecological hot spot which provided an important habitat for migratory birds comparable to Mai Po Nature Reserve. Moreover, the area was the premier location for scientific research on the migration of birds in the long term; and
- (w) HKBWS respectfully requested the Board to note the Area was of high conservation and scientific value, both locally and regionally; uphold the current representations to rezone from “R(D)” to “CA”; amend the Notes of the OZP as set out in (c) and (i) above; and support the recommendations of rezoning Po Toi as SSSI, and ultimately as CP.

R15/C2 - World Wide Fund for Nature Hong Kong (WWF)

54. With the aid of a PowerPoint presentation, Mr Andrew Chan made the following main points:

Ecological Importance of Po Toi

- (a) Po Toi was an important resting and refuelling stop for migratory birds in Hong Kong. HKBWS had previously conducted survey to demonstrate such importance and the survey findings had been already well presented in the meeting;
- (b) Po Toi was also the habitats for various species of amphibians and reptiles of conservation interest, including Romer’s Tree Frog;

- (c) Romer's Tree Frog, an endemic species to Hong Kong, was a globally 'endangered' species under the International Union for the Conservation of Nature (IUCN) Red List and was also protected by the laws of Hong Kong. Their natural population could only be found at Chek Lap Kok, Lantau, Lamma and Po Toi. According to a study on Romer's Tree Frog conducted by Dr Michael Lau, the genes of those tree frogs found in Po Toi were different from that of the other three areas. To avoid the extinction of the tree frogs, it was important to maintain the gene diversity of the species since the higher the gene diversity, the better the adaptability of that species to the changing environment. In this regard, Po Toi was an important habitat for Romer's Tree Frog and should be well protected;
- (d) HKBWS's survey revealed that the Romer's Tree Frogs in Po Toi were mostly distributed in an area close to "R(D)" zone;
- (e) waters around Po Toi Islands were also of ecological importance. 28 species of soft corals were recorded around Po Toi which ranked 10th amongst 100 surveyed sites in terms of species abundance. Po Toi was therefore a hot spot for soft corals;
- (f) Po Toi waters was also the habitat for Finless Porpoise, which was also an endangered species under the IUCN, especially during the wet seasons;
- (g) in view of the above, Po Toi should be well protected and development should be avoided to prevent causing any ecological impacts on the sensitive habitats and species;

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

Concern on "R(D)" zone

- (h) according to the Planning Report on Po Toi Islands attached to TPB Paper No. 9800, the justification to zone the concerned area as "R(D)" was to

provide flexibility for upgrading of existing domestic structures and for Small House/residential/holiday house development. However, most of the land zoned “R(D)” were outside the ‘VE’ and as there were no sewerage, drainage, and water supply systems in the Area, the feasibility of Small House or other low-rise, low density residential development was doubtful. It was therefore not necessary to designate a “R(D)” zone for the area;

- (i) the tall and mature trees within “R(D)” zone were of significant ecological importance as they provided resting site for migratory birds. Sensitive habitats for migratory birds and Romer’s Tree Frog would be affected if development was allowed in “R(D)” zone. Moreover, the increase in marine traffic for future residential development would cause disturbance to Finless Propoise;
- (j) there was no existing sewer or planned public sewer for the Area and each house was served by its own on-site septic tank and soakaway system. There was concern on the operation failure of septic tanks which would cause pollution problem to Po Toi and its surrounding waters. Sensitive marine habitats and species such as soft coral community and Finless Porpoise would be eventually affected;

Recommendations

- (k) to rezone “R(D)” into “CA” to prevent adverse ecological impact from development;
- (l) to delete clauses relating to hostel/holiday camp development to protect the habitat integrity of “CA”; and
- (m) to designate sensitive habitats into “SSSI” and ultimately the Po Toi Islands should be designated as CP.

R16 - Kadoorie Farm & Botanic Garden Corporation (KFBG)

55. With the aid of a PowerPoint presentation, Mr Nip Hin Ming made the following main points:

Appropriateness of “R(D)” zone

- (a) Po Toi was a well-recognised hotspot for migratory bird in South China Sea as a number of islands in the same water area which were suitable for developments, such as Wanshan, Guishan, had been developed and subject to great human disturbances;
- (b) the “R(D)” zone located along the south-western coast of Po Toi was the core area of the hotspot for the reason that that part of the island was shielded from the annual prevailing north-easterly wind of Hong Kong. Coupled with the presence of Wan Tsai stream in that area, which was the largest river system on the island providing the key water source for trees and vegetations, many mature trees were found in the south-western part of the island, thus forming a unique landscape and ecology;
- (c) many large mature trees were located behind the village and many important trees were found around the public pier. As Po Toi was not frequently accessible by ferry, the area near the public pier would not be subject to significant human disturbance;
- (d) the local villagers considered that there was a need to protect the natural environment of Po Toi and strongly opposed the construction of columbarium in the area;
- (e) the existing large mature trees within or near “R(D)” zone had provided an important refuge and foraging ground for migratory birds. Although some existing rain shelter and structures were found in the area or underneath the mature trees, they had become part of the nature and would not cause any adverse impact on the environment;

- (f) the designation of that core area of the hotspot of migratory birds as “R(D)” zone, which was unwanted or unnecessary, was not a good planning. Given the limited supply of electricity and water, and the lack of sewerage and drainage systems in Po Toi, the area was not suitable for low-rise, low-density residential developments, as intended for under the “R(D)” zone, or other recreational facilities with overnight accommodation;
- (g) KFBG had no strong objection to the redevelopment or rebuilding of existing structures in the area. However, such redevelopment was possible within “CA” zone subject to planning permission. It was considered that “CA” zone was more appropriate than “R(D)” zone in that ecologically sensitive area;

Planning intention of “CA” zone

- (h) KFBG was concerned about the wording in paragraph 9.8.4 of the ES which mentioned that the area near Tai Wan Public Pier might have potential for development of education and recreational facilities with overnight accommodation. This was in contravention with the planning intention of “CA” zone for conservation and was inconsistent with wording of the “CA” zone in the ES of other OZPs. Given that uses like ‘Field Study/Education/Visitor Centre’ and ‘Holiday Camp’ were already included in Column 2 of the Notes for “CA” zone, it was not necessary to specifically mention the potential for development in paragraph 9.8.4 of the ES which would give a wrong impression that development was encouraged in the core area;
- (i) the Board should recognise that most visitors went to Po Toi for appreciating nature and they would not like to see that the nature was destroyed;
- (j) KFBG was in doubt about the population of the Area as stated in the ES, i.e. 50 according to 2011 Census and 100 for the planned population, when

he heard in the presentations made by various groups and local residents that the usual population of Po Toi was nine only. While the Kadoorie Agricultural Aid Association was established in the area years ago, the main purpose of the association was to improve the basic necessity and living of the local people instead of promoting large scale developments;

- (k) given that the area had only limited water and electricity supply, limited transport, and no sewerage and drainage facilities, it was not sensible to promote residential development and overnight accommodation in Po Toi, in particular at the core area of the hotspot where many mature trees were found. Besides, it was also not reasonable to emphasize in the ES that development could be considered in that core area when the zoning was for conservation;
- (l) the ecological significance of the area for migratory birds, as recorded by HKBWS, should be duly considered in the conservation planning for Po Toi;

Conclusion

- (m) the area near the public pier, which was the core area requiring conservation, should not be zoned “R(D)”. KFBG urged that the concerned “R(D)” zone should be rezoned to “CA” or be reduced in size to only cover those existing houses/structures in that area. Alternatively, the “R(D)” zone should be relocated to a non-sensitive area with less environmental issues; and
- (n) paragraph 9.8.4 of the ES of the OZP which emphasized that development could be considered within “CA” should be deleted.

R17 – Green Sense

56. With the aid of a PowerPoint presentation, Miss Ho Ka Po made the following main points:

- (a) many large mature trees were found in the areas zoned “V” and “CA” in Po Toi and those areas were considered to be of high conservation value;
- (b) as Po Toi was lacking water and electricity supply, and there was no provision of sewerage, drainage or refuse disposal facilities, new residential developments within “V” and “R(D)” zones might not be feasible;
- (c) the island was frequently visited by many bird watchers or hikers who enjoyed the pristine environment. The new residential developments were not compatible with the existing rural environment but would destroy the natural scenery;
- (d) the concrete slabs found in the area had caused adverse impact on the environment and become an eye sore on the island. The ‘destroy first, build later’ development carried out by the developers should not be encouraged or regularised as that might create an undesirable precedent for other rural area. Green Sense therefore objected to the columbarium development on the island;
- (e) with a view to better protect the ecological environment of the area, it was recommended that all the column 2 uses within “V” and “R(D)” zones be deleted from the Notes and only redevelopment of existing houses be allowed in the area; and
- (f) notwithstanding that the designation of CP was outside the jurisdiction of the Board, Green Sense still recommended that Po Toi Islands, or the areas under “CA” zones of the OZP could ultimately be designated as CP.

R18 - Ruy Barretto

57. On request of Mr Ruy Barretto, a copy of his written representation incorporating his responses to the Paper was distributed to Members at the meeting.

58. Mr Ruy Barreto made the following main points:

Inappropriate “R(D)” zone

- (a) the local villagers did not want any new developments including the holiday houses near Tai Wan Public Pier in Po Toi. The effluent generated by the new developments would have significant adverse impacts on the ecologically sensitive environment;
- (b) he supported the views made in the presentations by HKBWS, KFBG, Conservancy Association, Association for Geoconservation, Hong Kong and Green Sense that Po Toi clearly met the criteria for designating as SSSI and CP;
- (c) he had been a bird watchers for more than 50 years and the ecologically significance of Po Toi for migratory birds was of regional importance. The designation of the area near Tai Wan, which was the core area of the hotspot, as “R(D)” was irrational and contradictory to all the evidence and opinions provided by the general public as well as the government departments. The core area should be conserved and well protected from developments;
- (d) China was a full member of the Convention on Biological Diversity (CBD) and its obligation to follow the articles and principles was applicable to Hong Kong. However, the key national and international obligations of Hong Kong to protect the core area for migrating birds had not been duly considered. The incentive to cause harm as suggested by “R(D)” should not be introduced in the core area;
- (e) it was non-sustainable to have house development next to the main stream on a dry island which would cause significant adverse impact on the environment. House development with septic tank facilities in the vicinity of the main stream was not technically feasible;

- (f) no technical assessments had been carried out to demonstrate the feasibility of the residential developments within the “R(D)” zone in the aspects of geotechnical, ecological, landscape and visual, and sewerage and water protection, etc.;
- (g) the Planning Report on Po Toi Islands prepared by PlanD in December 2014, which provided the foundation of general planning intention of the OZP, was not attached to the Paper. The information contained in the Planning Report, the ES of the OZP, as well as the expert evidence provided by various green groups proved the need for conservation zoning near the pier. AFCD had advised that areas of high ecological value should be preserved in a holistic manner;
- (h) the recommendation of designating the Area as a CP had been proposed by the Government for more than 20 years. PlanD’s current land use proposal for the area near the pier was completely inconsistent with the planning history of Po Toi that the island would one day be designated as a CP. It was important that the core area should be protected as long as possible until the designation of Po Toi as a CP;

Holiday house development

- (i) the local villagers did not want any holiday resort in the area and such development was not in the public interest. There was no demand for such recreational facilities providing overnight accommodation;
- (j) according to the ES, it was intended that with stringent planning control imposed under the “CA” zone, the rich ecological and biological features in the area could be protected and preserved. However, no special clauses were imposed to ensure stringent and effective planning control. The adoption of standard Notes was insufficient to provide any effective ecological protection for the Area as there was well known evidence that vegetation cutting usually took place without any prosecution;

- (k) it was completely illogical to encourage development in “CA” which was contrary to the planning intention of conservation and was in contravention with the articles and principles of CBD;

Illogical planning

- (l) no genuine evidence on the need of new residential developments or holiday houses in area near the pier was provided in the Paper. ‘Need and proof of need was the golden thread of public interest in planning law’ (*Haddon-Cave I in R, Cherkley Campaign Ltd, 2013 EWHC 2582 22nd August 2013*) and PlanD had no proof of need which was a fundamental requirement of planning law;
- (m) the planning for the Area was irrational in the sense that the Government recognised that Po Toi was of unique conservation importance but the land use proposals were contradictory. It was not a good planning as it was a planning against evidence and public interest; and
- (n) Po Toi was an area which required special protection. The Board was urged to exercise the right judgement based on evidence and common sense.

59. A copy of PlanD’s Planning Report on Po Toi Islands, provided by Mr Barretto, was circulated to Members for reference at this point.

C391 – Leung Fung Yin

C1329 - Leung Ming Yiu

C1330 - Leung Choi Ha

C1443 - Leung Mei Ting

60. Mr Leung Fung Yin made the following main points:

- (a) she was a resident of Po Toi;

- (b) all the 2,000 to 3,000 villagers of Po Toi, except a few, raised strong objection to the columbarium development in Po Toi;
- (c) on 4.8.2015, the developers of the columbarium met the villagers of Po Toi who unanimously objected to the columbarium development; and
- (d) the Secretary for Development previously stated that the Government had never used any ecologically sensitive areas within the “CA” or “GB” zones for commercial uses. The development of such unwelcoming columbarium use in the area of high conservation value should not be supported; and
- (e) while the developers were involved in an ongoing legal dispute with the Lands Department (LandsD) over the columbarium development in Po Toi, yet the developers were allowed to submit application to register the site as an existing columbarium. She was concerned that the Government was working in collusion with the developers.

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61. Mr Tse Sai Kit made the following main points:

Columbarium development in Po Toi

- (a) the local villagers were glad to see that Po Toi had become a renowned place due to its unique environment which was of high ecological and conservation significance;
- (b) although most indigenous villagers of Po Toi had moved to other parts of the territory for work, they had maintained their strong sentiments towards the island and would frequently visit their homeland during weekdays/weekends or other celebrations/ceremonies;
- (c) with the development of columbarium in Po Toi, the development pattern

of the area would be completely changed, resulting in the hegemony by a few private developers. That would cause an adverse impact on the future developments of the area;

Claim of 'EU'

- (d) the large-scale suspected columbarium use in Po Toi, which was a ‘destroy first, build later’ development, was first discovered in February 2012. The developers of the concerned columbarium/memorial garden (R10) tried to convince the Board in their presentation in the morning that the development was an ‘EU’ under the Ordinance;
- (e) according to the minutes of the meeting of the Lamma Island (South) Rural Committee (RC) held on 23.4.2012, the RC Chairman had clarified that the concerned site was purchased by developers and all the existing vegetation on the site were cleared for the purpose of carrying out some on-site survey. The concrete slabs were subsequently laid on the ground to avoid the regrown of vegetation. The RC Chairman clearly pointed out that the development on the site was not a columbarium use as suspected. In this regard, R10’s claim of ‘EU’ for the columbarium was not substantiated;
- (f) it was revealed from the on-site inspections carried out by him and others in February 2012 and June 2014 that the concrete slabs on the site were only loosely fixed on the surface soil and no underground vault for storage of urns/ashes was spotted. It was therefore untrue for the developer to claim that the site was an existing columbarium;
- (g) in response to the developers’ presentation in the morning that the site had been recognised as a columbarium by FEHD which inspected the site on 28.6.2014, he pointed that the information was not factually correct for the reason that upon promulgation of the Private Columbaria Bill in June 2014, all the columbaria operators who applied to register the site as an existing columbarium were required to report the total number of niches within

their establishment, and FEHD would then carry out site inspection to verify the information. Although the developer claimed that storage of ashes had already taken place on the site prior to the site inspection by FEHD, it was noted that the developers still failed to confirm that human ashes were stored on the site. Even if it could be established that human ashes were stored within the site during FEHD's inspection in June 2014, there was no evidence to prove that the columbarium use on the site existed prior to the publication of the first DPA Plan in March 2012;

- (h) on the exemption criteria under the Private Columbaria Bill, he wished to clarify that only those premises which were in operation before 1990 might be exempted from the registration requirement. The alleged columbarium on the site was not eligible for such exemption;

Comments on the developers (R10)'s other justifications

- (i) on R10's claim that the columbarium use on the site was not incompatible with other new graves in the vicinity, he said that upon the designation of two permitted burial grounds for the indigenous villagers and local fishermen in Po Toi in 1977, all burying activities and erection of new graves had to be carried out within the permitted burial grounds on application to HAD. Those new graves which were erected outside the permitted burial grounds were not permitted under the prevailing policy;
- (j) on R10's argument that the private columbarium would help to meet the large demand for columbarium facilities in Hong Kong, according to the Food and Health Bureau (FHB), additional public columbaria in six districts providing more than 200,000 and 450,000 niches would be available in the coming three and 10 years respectively to meet the territorial demand. Besides, FHB was still actively liaising with various district councils with a view to develop more public columbaria in other districts. It was considered that the demand for private columbaria might gradually decrease;

Enforcement against columbarium use

- (k) the land owned by R10 were agricultural lots under the lease and the use of the site for columbarium use which involved the storage of ashes was in breach of the lease conditions. Other sites in Shui Mong Tin, Tai Po and Tei Tong Tsai, Lantau, where similar columbarium developments were developed on agricultural lots without permission, were being re-entered by LandsD for non-compliance with the lease conditions. There was concern on whether LandsD had other special considerations that similar enforcement action was not taken for the site;
- (l) the ongoing court case related to the columbarium use in Hong Dao Tang (弘道堂), Kwai Chung, was recently heard by the High Court in October 2015. During the hearing, the High Court judges generally opined that it was common sense to regard ashes stored in the niches as human remains. It was hoped that the ruling of the High Court would be handed down soon as the judgement would have far reaching implications on a number of unauthorised columbaria which had been continuing their operation in the interim. The judgement would help to clear the dispute beyond doubt and provide better protection for the purchasers of niches from private columbaria;
- (m) he strongly objected to the ‘destroy first, build later’ approach adopted by the developers with a view to justify the development of columbarium on the site. He also had concern that the columbarium use on the site would adversely affect the unique ecological environment of the area. He concurred with the views of other green groups that Po Toi Islands should be designated as a CP which would provide more comprehensive planning, management and conservation for the Area. That would help to sustain the high ecological and conservation value of the Area;

Designation of “R(D)” Zone

- (n) it was revealed from their site visits to Po Toi that the area currently under “R(D)” zoning was frequently visited by many bird watchers as that area

was an important roosting and foraging ground for the birds;

- (o) while redevelopment of existing structures within the private building lots would be allowed on application, “R(D)” zone, which was intended for low-rise, low-density residential developments, might encourage more new developments in the area that would significantly degrade the ecological value of the area; and
- (p) on consideration of the Government’s previous planning intention to designate Po Toi as a CP, the Board was urged to exercise more stringent development control to ensure the realisation of the original planning intention in the long run.

62. Members noted that Mr Tang Hon Tong, C1191, who had previously indicated his intention to make an oral presentation, had already left the meeting.

63. As the presentations of the representers, commenters or their representatives had been completed, the Chairman invited questions from Members.

Rationale for designating “R(D)” zone

64. In response to a Member’s question on the condition of the existing structures within “R(D)” zone, Mr Ivan M.K. Chung, DPO/SKIs, with the aid of a PowerPoint slide showing some site photos extracted from Plan H-4d of the Paper, said that most of the existing structures were in dilapidated condition and one storey in height. According to the records of LandsD, a few private lots with building entitlements were located in the middle and southern parts of the “R(D)” zone while a number of temporary structures permitted for domestic purpose under the Government Land Licences (GLL) were scattered along the northern and north-eastern boundary of the zone.

65. A Member asked whether new residential development on government land within “R(D)” zone would also require planning permission from the Board, and whether the mature trees, as mentioned by the representers, fell on the government land or private

land. Mr Chung said that according to the Notes for “R(D)” zone, redevelopment of house was always permitted. For new residential developments or replacement of other temporary structures by domestic structures, planning permission from the Board would be required regardless of whether the developments were on government land or private land. Such requirement was to ensure that those new residential developments would not have adverse impacts on the surrounding area. He said that those mature trees in “R(D)” zone mainly fell on government land.

66. Having regard to the representers’ concern on the high ecological value of the Tai Wan area where many bird species were found, Mr K.K. Ling, Director of Planning (D of Plan), said that the interface between the human settlements and the natural environment in the concerned area, which was more accessible, had existed for years. He asked DPO/SKIs to elaborate on issues relating to the rationale for designating a “R(D)” zone on the OZP; the delineation of the zoning boundary of “R(D)” zone; and the provision for redevelopment of houses within “R(D)” zone.

67. A Member also asked why the land currently occupied by GLL was designated as “R(D)” and whether other zonings on the OZP would also have provisions for redevelopment/rebuilding of those licensed structures.

68. In response to the above questions, Mr Chung made the following main points:

- (a) the Islands District Council (IsDC) and the local residents as well as other stakeholders were consulted on the land use proposals of the draft OZP prior to its gazetting. The private land owners and local residents were concerned that their development/redevelopment right would be affected. Those views, together with other stakeholders’ views had been submitted to the Board for consideration during its further consideration of the draft OZP in February 2015;
- (b) the “R(D)” zone was intended to reflect the prevailing site characteristics including the existence of some private lots with building entitlements and a number of one to two-storey temporary structures. Although trees and

vegetation were found within the “R(D)” zone, the area was not a natural habitat and had been disturbed by human settlements and associated activities;

- (c) the boundary of “R(D)” zone was drawn up based on various considerations including land status, ecological value of the area, existing physical features such as the existing footpath and the locations of existing domestic structures/squatters. The planning intention of “R(D)” zone was primarily for improvement and upgrading of the existing temporary structures within the area through redevelopment of those existing temporary structures into permanent buildings. However, there was also a need to respect the development rights of those private lots in the area. In view of the need to preserve the rural environment and the lack of utility and infrastructural provisions in the area, new residential development in the area was subject to planning permission from the Board to ensure that the development would not cause adverse impacts on the surrounding area; and
- (d) according to the Notes for “R(D)” zone, upgrading and improvement, redevelopment of existing temporary structures or existing building should not result in a total development and/or redevelopment in excess of a maximum building area of 37.2m² and a maximum building height (BH) of 2 storeys (6m), or the building area and height of the existing building. Other low-rise and low-density residential developments up to a maximum plot ratio (PR) of 0.4 and a maximum building height of 3 storeys might be permitted on application to the Board. Such development intensity was considered on the low side and not incompatible with the rural setting of the area.

69. Referring to paragraphs 6.9 and 6.13 of the Paper which specified the general planning intention of the Area was mainly for conservation and the specific planning intention for “R(D)” zone was for upgrading of existing temporary domestic structures through redevelopment respectively, a Member asked why the “R(D)” zone was also intended for low-rise, low-density residential developments.

70. In response, Mr Chung clarified that “R(D)” zone was intended primarily for improvement and upgrading of the existing temporary structures. As some private lots with building entitlements were found within the area, it was also intended to respect the development rights of those private lots by zoning the area as “R(D)”. The provision for low-rise, low-density residential developments was subject to the maximum development intensity as specified in the Notes and on application to the Board.

71. A Member asked whether those private lots within the “R(D)” zone had been developed and another Member asked the percentage of undeveloped private building lots within the area. In response, Mr Chung said that there were four old scheduled building lots within “R(D)” zone. Some structures were found on these four lots even though they might not fall entirely within the lot boundary.

72. A Member asked if the private land within “R(D)” zone were owned by the indigenous villagers. In response, Mr Chung said that he had no ownership record of the concerned area in hand. However, according to the relevant lease conditions, those private land within “R(D)” zone were building lots, not for Small House development. Most of the land within “R(D)” fell outside the ‘VE’ of Po Toi Village. The development of Small House by indigenous villagers would be administered by LandsD in accordance with the prevailing Small House Policy.

73. The same Member further enquired about the land status of those private lots in the vicinity of “R(D)” zone. With the aid of a plan showing the representation sites and their surroundings, Mr Chung said that the private land within the representation site of R10 was agricultural lots, while those areas to its immediate west (i.e. the representation site of R9) and further north-west (i.e. the area where the Chinese YMCA of Hong Kong (YMCA) proposed to develop holiday houses) consisted of both building lots and agricultural lots. As for the land within “R(D)” zone, it comprised a few building lots and some GLL.

74. Another Member asked about the number and conditions of those existing structures within “R(D)” zone and whether there was any plan to provide public utilities in the long run to facilitate the residential developments within the zone.

75. In response, Mr Chung said that there was at present about 10 domestic structures within “R(D)” zone. According to the site visit, there were only a few inhabitants in Po Toi during weekdays and several operators of the local provision stores near the public pier during weekends. The concerned government departments had no plan to provide any public utility or infrastructure facilities for the area. In this regard, future developers of any residential development in Po Toi would have to demonstrate the feasibility of residential development in the area to the Board at the planning application stage.

76. A Member understood that it was the usual practice for PlanD to designate an area as “R(D)” if some existing temporary structures were found so as to encourage the improvement and upgrading of those temporary structures through redevelopment into permanent buildings. The Member asked DPO/SKIs whether the current designation of the concerned area as “R(D)” was in line with the above practice.

77. In response, Mr Chung answered in the affirmative and reiterated that as some temporary structures were found in the concerned area, it was appropriate to designate the area as “R(D)” which was primarily intended for improvement and upgrading of existing temporary structures through redevelopment into permanent buildings. He further said that during the preparation of the draft OZP, the local residents were consulted who expressed the views that their rights for redevelopment/rebuilding of those licensed structures should not be affected. The above views were reported to the Board during its further consideration of the draft OZP in February 2015. Mr Chung pointed out that if the concerned area was designated as “CA”, there would be no provision for redevelopment of some temporary domestic structures if no on-site structure could be found.

Holiday house development in “CA” zone

78. Mr Ling asked DPO/SKIs to explain the reason for including a paragraph in the ES for “CA” zone which stated that the area near Tai Wan Public Pier might have potential for development of educational and recreational facilities with overnight accommodation.

79. Another Member also asked whether there was a demand for recreational facilities such as overnight accommodation within “CA” zone and the implementation mechanism for such facilities.

80. In response to the above questions, Mr Chung made the following main points:

- (a) during the preparation of the draft OZP, YMCA submitted a proposal for holiday camp development in an area to the south-east of the existing public pier. The proposal was submitted to the Board for consideration during its preliminary consideration of the draft OZP in end December 2014; and
- (b) with a view to unleashing the education and recreational potentials of Po Toi, there might be opportunity for the development of some low-rise, low-density holiday houses at an area near the public pier which was more accessible. However, such development was still subject to the resolution of a number of technical issues such as environmental, ecological, traffic, infrastructure, sewerage, drainage, etc. In this regard, the ES was worded in such a way to reflect the above. Besides, the schedule of uses of “CA” zone, which included ‘Holiday Camp’ in Column 2 uses, was consistent with the Master Schedule of Notes to Statutory Plan (MSN) as previously endorsed by the Board.

81. A Member asked those local residents at the meeting whether they were in support of the development of holiday camp within the area.

82. In response, Ms Kwok Yee Chu, one of the representatives of R6, said that she had been living in Po Toi for more than 40 years. Years ago, she had once heard that the hill slopes near Wan Tsai were sold for the development of holiday houses but she had no information on the parties involved in the land transaction. Like other local villagers, she welcomed the development of holiday houses in Po Toi as it would help to boost the tourism potential of the island and increase the popularity of the area. The local villagers were strongly dissatisfied that the area was now used for columbarium development instead of the

original proposed holiday houses.

Views of local residents on the development need of Po Toi

83. A Member asked whether local residents had any view on the “R(D)” zoning which was to cater for residential development in the area.

84. In response, Ms Leung Fung Yin (C391) said that in view of the lack of provision of public utilities such as water and electricity supply, the development potential for the area was very low. Currently, the Government was responsible for the provision of potable water for the local residents at a rate of \$15,000 per quarter and the electricity charge for the island was shared by the local residents. It would be unfair for the tax payers and local residents to subsidise the electricity and water charges of other new developments in the area.

85. Mr Ling asked if the local residents considered that there was a need to redevelop the existing structures in the area near the public pier. In response, Mr Law Sing (R5) said that most of the structures within “V” zone to the north of the public pier were the ancestral houses of the indigenous villagers which were mostly in ruin. He had no idea on whether the indigenous villagers would like to redevelop those houses. As a local resident, he would like to see some kind of developments, such as holiday houses on the island, which would help to increase the vibrancy of the island.

86. Another Member said that “R(D)” zone was intended for redevelopment of the existing temporary structures as well as allowing other low-rise, low-density residential development on application to the Board. The Member asked if the local residents would welcome such low-rise, low-density residential developments in the area. In response, Mr Law said that the local residents had no strong view on whether there was any new development in the area. Their main concern was to preserve the existing environment, and hence they objected strongly to the development of columbarium in Po Toi. Given that there were a number of ancestral houses of the indigenous villagers in the area, redevelopment or rebuilding of those existing houses should be allowed and the government departments should not impose undue constraints on such redevelopment.

Provisions for development/redevelopment of house under “R(D)” and “CA”

87. Mr Ling asked DPO/SKIs to explain further whether the development right of the existing building lots and the redevelopment right of those existing temporary structures would be affected if the area currently zoned for “R(D)” were rezoned to “CA”. Mr Chung said that according to the Notes for “CA” zone, redevelopment of house would be allowed on application to the Board provided that an existing domestic structure was found on site. Apart from that, there was no provision for new residential development in “CA” zone.

88. In response to a Member’s question on the views of the local residents about the rezoning of the concerned area from “R(D)” to “CA”, Mr Law expressed his concern whether redevelopment of ancestral houses was allowed under “CA” zoning. Mr Chung explained that redevelopment of house was always permitted on land within “R(D)” zone but would require planning permission from the Board if the area was zoned “CA”. Redevelopment would not be allowed within “CA” zone if no existing structure was found on site.

89. Noting that the local villagers had no objection to redevelopment of the existing domestic structures and were only worried that new developments might destroy the existing environment of the area, a Member asked whether the local villagers had any objection to new residential development on those building lots if their concern on the adverse impacts brought about by the new developments could be addressed through the planning application mechanism.

90. In response, Ms Kwok said that the local villagers were more concerned about redevelopment right of the existing structures in the Tai Wan area. She recalled a bad experience many years ago that the local villagers were required by the Government to comply with many rules and regulations when they applied for in-situ redevelopment of their houses which were destroyed in a fire. She was therefore worried whether the redevelopment of existing structures would be affected. Mr Law supplemented that unlike those green groups which raised strong objection to “R(D)” zoning for the area, the local villagers were indifferent on the specific zoning for the area. Moreover, they had no strong views on whether new development should be allowed in the area. He reiterated that the

local villagers' major concern was to avoid the development of columbarium in Po Toi.

91. A Member asked whether the local villagers attending the meeting were the land owners of the private lots or the occupiers of those licensed structures in "R(D)" zone. Mr Law replied in the negative and said that all the local villagers attending the meeting came from the "V" zone near Tai Wan. The views expressed by them at the meeting could not represent those of the local residents within "R(D)" zone.

Suspected columbarium development

92. A Member asked whether the development of suspected columbarium or the laying of concrete slabs on agricultural land, as currently carried out by developers, was an unauthorised development or a 'destroy first, build later' case; and whether enforcement action was taken against such development. In response, Mr Chung said that according to record, the concrete slabs already existed in Po Toi prior to the first gazetting of the draft DPA Plan covering the Po Toi Islands in 2012. Unless there was any material change to the existing use on the site, the presence of those concrete slabs on the site would not be regarded as an unauthorised development. No enforcement action was currently undertaken in Po Toi by the Planning Authority.

93. A Member asked whether there was any information on the land sale history of the site currently used for the suspected columbarium development. In response, Mr Chung said that the concerned private lots were demised for agricultural use under the lease and he had no information on the land transaction of those private lots.

94. Noting that the concrete slabs laid in the area was not considered as an unauthorised development, a Member asked whether it would constitute an unauthorised development if the site was converted into a columbarium use. In response, Mr Chung said that since the concrete slabs were in existence prior to the gazettal of the first DPA Plan for the Area, such use was not regarded as an unauthorised development. Nevertheless, should the site be converted into a columbarium use, it would constitute an unauthorised development and would be subject to investigation and enforcement action by the Planning Authority as appropriate.

95. Noting that the representative of R10 had claimed that ashes were stored on the site, the same Member considered it might be a good piece of evidence to prove that the site was being used for columbarium purpose illegally. The Member asked if enforcement action against the columbarium development would be carried out. In reply, Mr Chung said that the grounds put forth by R10 during his presentation at the meeting were noted and appropriate enforcement action would be undertaken by the Planning Authority if considered necessary. The Chairman remarked that whether there was unauthorised development of columbarium use at the site would have to be established by concrete evidence.

Others

96. In response to a Member's question on the rationale for designating a piece of rectangular land to the east of "R(D)" as "GB", Mr Chung said that the "GB" zoning was to reflect the boundary of a permitted burial ground in Po Toi. The Director of Agriculture, Fisheries and Conservation (DAFC) was consulted and had no objection to such designation.

97. As Members had no further question to raise, the Chairman said that the hearing of Group 2 had been completed. The Chairman thanked the presenters, commenters, and their representatives and the government representatives for attending the meeting. He said that the Board would deliberate on the representations in their absence and would inform the presenters of the Board's decision in due course. They all left the meeting at this point.

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

Deliberation Session

98. Members noted that Dr Wilton W.T. Fok and Ms Bernadette H.H. Linn had only attended the afternoon session of the meeting and were absent from the hearing of Group 1 representations and a few oral presentations of the Group 2 representations. After deliberation, Members agreed that Dr Fok and Ms Linn should withdraw from the meeting during the deliberation of the representations.

99. Members also noted that Dr W.K. Yau and Mr Sunny L.K. Ho had left the meeting temporarily during the representers' presentations in the morning session. After deliberation, Members agreed that Dr Yau and Mr Ho should be allowed to stay in the meeting as they were only absent for a short duration and the grounds raised by the representers or their representatives during their absence were similar to the written representations or those raised by other representers, some of which had also been recapped during the question and answer (Q&A) sessions.

[Dr Wilton W.T. Fok and Ms Bernadette H.H. Linn left the meeting at this point.]

100. The Chairman noted the major concern raised by the representers during the hearing of the Group 1 representations was related to the proposed columbarium/memorial garden development and issue of 'EU' while that for the Group 2 representations was on the appropriateness of the "R(D)" zone for the concerned area. He invited Members to consider the representations and comments taking into account the written submissions and the oral submissions.

Proposed columbarium development in Po Toi

101. At the request of the Chairman, Mr K.K. Ling made the following points relating to 'EU':

- (a) R10 had provided some information to substantiate his argument that the site had been used as a columbarium prior to the gazettal of the first DPA Plan for the Area, and hence the columbarium use should be regarded as an 'EU';
- (b) 'EU' was clearly defined under the Ordinance. According to the Ordinance, 'EU' in relation to a development permission area was defined as a use of a building or land that was in existence immediately before the publication in the Gazette of notice of the draft plan of the development permission area. Under the covering Notes of statutory plans, no action was required to make the 'EU' conform to the plan,

provided such use had continued since it came into existence;

- (c) whether a development was an ‘EU’ was a matter of fact. Any dispute on the claim of an ‘EU’ would have to be determined by the court based on the evidence submitted under oath;
- (d) notwithstanding that R10 had provided some information to support his claim that the columbarium use was an ‘EU’, the Board should take into account the information and consider whether such information were sufficiently strong to justify a change in the planning intention for the area. The zonings on the OZP were broadbrush and it was not uncommon in the rural area that a particular zone might have included some existing uses which were non-conforming to the zoned use; and
- (e) any intensification of the ‘EU’ might constitute an unauthorised development which would be subject to enforcement action by the Planning Authority.

102. In response to a Member’s question on whether development of a columbarium on agricultural lots were permitted under the planning regime, Mr Ling said that whether a development could be regarded as an ‘EU’ was based on the actual use of the land on the site at the time of publication of the first DPA plan, irrespective of the lease condition of the concerned private land.

103. Members noted PlanD’s responses to the representations as stated in paragraphs 6.30 to 6.32 of the Paper, and agreed that there was no evidence/information to establish that there was any existing columbarium/memorial garden use in Po Toi and there was insufficient information to demonstrate that the proposed development would not have adverse impacts on the surrounding area.

Concerns on “R(D)” Zoning

104. To provide Members an overview on the planning intention and schedule of

uses for the “R(D)” and “CA” zones, the Secretary, with the display of Notes for the two zones on the visualiser, briefed Member on the following:

- (a) it was not uncommon for PlanD to designate an area currently occupied by some temporary domestic structures as “R(D)” with a view to improving and upgrading those existing temporary structures so as to improve the living environment. The planning intention of “R(D)” zone was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It was also intended for low-rise, low-density residential developments subject to planning permission from the Board;
- (b) according to the schedule of uses for “R(D)” zone, ‘House (Redevelopment; Addition, Alteration and/or Modification to existing house only)’ was a Column 1 use which was always permitted while other residential uses, such as ‘Flat’ and ‘House (not elsewhere specified)’, might be permitted on application to the Board. The development parameters for the former use were restricted to a maximum building area of 37.2m² and a maximum BH of 2 storeys or that of the existing building; while the latter development would be subject to a maximum PR of 0.4 and a maximum BH of 3 storeys; and
- (c) according to the Notes for “CA” zone, ‘House (Redevelopment) only’ was a Column 2 use which required planning permission from the Board. There was no provision for new residential development under the “CA” zone. Moreover, any redevelopment, including alteration and/or modification, of an existing house should not result in a total redevelopment in excess of the PR, site coverage and height of the house which was in existence on the date of the first publication in the Gazette of the notice of the draft DPA plan.

105. To assist Members to have a better understanding of the land status of the

existing “R(D)” zone, the Secretary displayed on the visualiser an enlarged extract of Plan H-2b of the Paper showing the distribution and locations of private land with building lots and structures with GLLs for Members’ reference.

106. Members had a lengthy discussion on the appropriateness of the “R(D)” zoning for the concerned area and other alternative zoning options.

Option 1 : Rezone from “R(D)” to “CA”

107. Given that new residential developments might be allowed within the “R(D)” zone but there was a lack of basic utility and infrastructure provision in Po Toi at the moment, a Member considered that the concerned area should more appropriately be rezoned to “CA”. Upon the provision of utility and infrastructural facilities in future, consideration might be given to rezoning the area to other appropriate zones to facilitate residential developments.

108. A Member supported the rezoning of the concerned area from “R(D)” to “CA” as it would be in line with the general planning intention for the Area which was to conserve the areas of high ecological significance. As it was understood from some of the representers that the “R(D)” zone covered the mature woodland, which was ecologically crucial roosting grounds for migratory birds in Po Toi, the designation of the concerned area as “CA” was considered more appropriate. While the redevelopment right of the existing houses or domestic structures should be respected, any new residential development should not be encouraged if the high ecological value of the area was to be preserved.

109. Another Member concurred that the concerned area should be rezoned to “CA” having regard to the high ecological value of Po Toi as mentioned in the Paper or by some of the representers in their presentations. Although the building entitlements of the private lots should be respected, the general planning intention of conservation should take precedence. The designation of the entire concerned area as “R(D)”, as currently proposed, was not appropriate as it might encourage more new residential developments in the area. Alternatively, consideration might be given to only designating those building lots as “R(D)” in order to provide more flexibility for their future development/redevelopment.

110. Considering that there were only a few residents and several domestic structures in the area, and the local residents had clearly stated in the Q&A sessions that they had no strong view on the zoning for the concerned area, a Member considered that the “CA” zoning, which had provision for redevelopment of the existing houses or domestic structures on application, would be sufficient to meet the redevelopment needs of the local residents taking into account that there was no strong demand for new residential development within the area. On the other hand, the designation of the concerned area under “R(D)” zoning was strongly opposed by the green/concern groups.

111. A Member considered that the above proposal to designate only those land with building entitlements as “R(D)” would be desirable as it could respect the development right of the private land owners as well as to facilitate the improvement and upgrading of the existing structures if necessary.

112. The concerned Member, who put forth the alternative proposal as set out in paragraph 109 above, elaborated that the current “R(D)” zone could be revised to cover only those land with building entitlements and under GLLs permitted for domestic use. Upon publication of the proposed amendments, the local residents would be given a right to submit further representations and their views would be heard during the consideration of further representations by the Board.

113. Another Member held a different view and opined that only the four private lots with building entitlements should be designated as “R(D)”. Other existing structures under GLLs should not be allowed to increase the development intensity, upon redevelopment, up to the scale similar to that of other private building lots.

114. A Member was concerned that for those lands with GLLs where the original structures no longer existed on site, redevelopment would not be allowed under the provision of “CA” zone. In response, the Secretary said that under “CA” zone, ‘House (Redevelopment only)’ was a Column 2 use which required planning permission from the Board. Evidence must be produced to demonstrate that the applied use involved redevelopment of a house. Apart from the above statutory planning requirement, the redevelopment of those structures under GLLs would also be subject to the approval of

LandsD which would consider each case in accordance with the prevailing policy and guidelines. The Secretary further recapitulated the background information, as presented by DPO/SKIs, that the locals were consulted on the land use proposals during the preparation of the draft OZP and had expressed an aspiration that their development rights should be respected, even though those land owners had not submitted any representations in respect of the draft OZP.

115. Another Member proposed to revise the boundary of the existing “R(D)” zone to cover only the four private lots and its adjoining area so as to provide more flexibility for redevelopment of those existing structures on the private lots. For those structures under GLLs, consideration might be given to rezoning them to “CA” or “GB” having regard to the fact that they would only be allowed to develop up to the existing development intensity upon redevelopment.

116. A Member said that in view of the high ecological value of the area where “R(D)” zone was designated, more stringent control on the rebuilding or redevelopment of the existing structures should be imposed in order to avoid causing adverse impact on the existing environment which was an important roosting ground for the migratory birds. To respect the development rights of the private lots, it was considered more appropriate to designate the four private lots with building entitlements as “R(D)” so as to contain the scale of future developments in the area as far as practicable.

117. Another Member considered that the proposal to revise the boundary of the existing “R(D)” zone to a smaller area covering the four private lots and their adjoining land would be optimal. The revised zoning for the area might be able to strike a balance between conservation and development as advocated by the green groups and the lot owners respectively. There was no strong ground to designate those temporary structures under GLLs as “R(D)” as the redevelopment right of those structures would be lapsed when the licensees passed away and rebuilding of those structures was subject to more stringent requirements such as the use of the same kind of temporary materials.

118. In response to the Chairman’s enquiry, the Secretary said that the zoning boundary could be drawn up with reference to the site characteristics, conservation value of

the features, lot boundaries and footprints of the on-site structures as appropriate.

Option 2 : Retention of the original “R(D)” zone

119. A Member pointed out that although the local residents present at the meeting had no preference on the specific zoning for the concerned area, none of them were the land owners/residents of the “R(D)” zone. Their views should not be taken as the views of those affected land owners/occupiers of the licensed structures. The Member opined that the “R(D)” zoning for the concerned area should be retained.

120. Mr Ling said that it was important that a consistent approach be adopted in the designation of zonings on rural OZPs. It was the normal practice for PlanD to designate an area as “R(D)” where some private lots with building entitlements and/or structures with GLLs were found in order to respect their development/redevelopment rights. Having considered the site characteristics of the concerned area with the presence of some human settlements, the proposal to rezone the area from “R(D)” to “CA” would be a deviation from the usual practice. Citing the experience of zoning designation for the Shap Sze Heung OZP as an example, the two building lots in the midst of the larger “CA” zone was subsequently rezoned to “V” to reflect their building entitlements. As a compromise between the diverse views of different stakeholders, consideration might be given to designating an appropriate portion of the area as “GB” which might provide better protection for the existing natural environment than the “R(D)” zone.

121. A Member shared Mr Ling’s views that it was important for the Board to adopt a consistent approach in designating land use zoning on the OZP. Since DPO/SKIs had confirmed that the zoning of the concerned area as “R(D)” was in compliance with the planning intention to facilitate the improvement and upgrading of the existing temporary structures in the area and followed the established practice, it was appropriate to retain the existing “R(D)” zoning. The Member further said that the local residents had indicated that their main concern was to ensure that the redevelopment right of the existing houses should be respected, and they had no strong views against new residential development in the area which would be subject to planning permission from the Board to ensure no adverse impact on the environment.

122. The same Member said that it was understandable that the affected land owners of “R(D)” zone would not submit representations as their concerns were already addressed by such zoning on the OZP. The Member reiterated that the “R(D)” zoning for the concerned area was appropriate as it would provide more flexibility for alteration and addition of existing structures. On the contrary, the large-scale rezoning of the entire “R(D)” zone to “CA” or the designation of specific land/structures as “R(D)” would pose undue constraints on the design, layout and disposition of those existing structures upon their redevelopment. As shown on the site photos of the Paper, it was noted that the landscape environment of the land occupied by the existing structures and its adjoining area were similar. The Member therefore considered that it would be difficult to justify the designation of different zonings for the building lots and its surrounding area. Should the concerned area be rezoned from “R(D)” to other zonings as proposed, such amendment might be subject to challenge by local residents on the ground that PlanD had adopted an inconsistent approach in the designation of “R(D)” zones as compared with other OZPs.

123. Mr Ling said that the subject “R(D)” zone was in the proximity of the public pier and had been occupied by some existing structures developed years ago. Besides, the “Government, Institution or Community” (“G/IC”) zone to the immediate east of the “R(D)” zone was previously occupied by a school. It was evident that human settlements already existed in the area for many years and the original natural environment had already been disturbed. It was important for the Board to take into consideration the past and existing land uses of the area in determining the appropriate zoning for the area.

124. A Member asked apart from the private lots and GLL, whether there was other existing developments within the “R(D)” zone. In response, the Secretary said that some temporary structures erected on government land were also found in that area.

125. The same Member further asked whether a member of the public who was not the land owners could submit application for house development within the “R(D)” zone. The Secretary explained that in general, any person could submit planning application to the Board for development on any land not owned by him/her provided that the applicant had complied with the owners’ consent/notification requirement. In the event that an applicant had obtained the necessary planning permission from the Board, there was no guarantee that

the applicant would be able to implement the approved proposal if he was not the land owner of the application site.

126. Another Member opined that if the concerned area was rezoned to “CA”, the original planning intention to encourage improvement and upgrading of the existing temporary structures into permanent buildings, hence improving the general environment of the area, would be defeated. The existing “R(D)” zoning would provide more flexibility for future redevelopment of the existing structures in terms of design and layout. Whether the new structures could be developed up to the maximum development intensity as stipulated on the OZP would still be subject to the approval of other concerned government departments such as LandsD or the Buildings Department.

Option 3 : Rezone from “R(D)” to “GB”

127. To facilitate Members’ discussion, the Secretary displayed the Notes for “GB” zone on the visualiser and said that house development was a Column 2 use which required planning permission from the Board. As compared with the Schedule of Uses for “CA” zone which only allowed redevelopment of houses subject to planning permission, “GB” zone would provide more flexibility for house development in that both redevelopment of existing house and other new house development might be permitted on application to the Board.

128. A Member opined that “R(D)” zone had already provided sufficient control on new residential development through the planning application mechanism. It was noted that the local residents present at the meeting had no vested interest in the “R(D)” zone and hence they had no strong views on whether new residential development should be allowed therein. It was also noted that R7, with the support of 463 villagers, had requested for the expansion of “V” zone to cater for the demand for Small House. As the designation of the concerned area under a residential zoning of “R(D)” might be wrongly perceived by the general public that the Government encouraged new residential development in the area, it would be worthwhile to explore the feasibility of rezoning the area to a conservation zoning of “GB”. That might help to balance the concerns of the green groups for conservation and that of the local residents for new residential development.

129. Mr Ling said that given the accessibility of the concerned area near the public pier, the designation of the area as “GB” might provide relatively more flexibility than “CA” to meet the future development need of the area.

130. In response to a Member’s question on the provision for house development as specified on the Notes for “GB” zone, the Secretary explained, with the aid of the Notes for “GB” zone on the visualiser, that as rebuilding of NTEH and replacement of existing domestic building by NTEH were uses always permitted under the covering Notes of the OZP, house development which did not fall within the above-said situations would require planning permission from the Board. Each application would have to be considered based on its individual merits.

131. Another Member considered that although the general planning intention for the Area was primarily for conservation of areas with high ecological value, a balanced approach should be taken to respect the development right of the land owners. Noting that columbarium use was included in the Column 2 of the Notes for “GB” zone, it might not be appropriate to rezone the area to “GB” in order to avoid unnecessary speculation that the Government was giving favouritism to those developers of the columbaria.

132. In view of the diverse views expressed by Members and with the agreement of Members, the Chairman invited Members to have a show of hands to indicate their views on whether the original “R(D)” zone should be retained as currently shown on the draft OZP, or the “R(D)” zone should be reduced with reference to the other alternatives discussed above. More Members agreed that the original “R(D)” zone should be reduced in area. Members then continued to discuss the revised zoning boundary for the smaller “R(D)” zone.

Revised zoning boundary for “R(D)” zone

133. A Member considered that it was the normal practice for the Board to delineate the zoning boundaries of the statutory plans based on a number of planning considerations including the planning intention, conservation value of the area and the existing land use features, etc., and land ownership was only one of the factors to be considered during the process. It would be prudent that the delineation of the revised boundary of “R(D)” zone

should follow the established practice as far as practicable. Moreover, it was also important to ensure that the area which was proposed to be rezoned to “CA” would be of higher ecological value.

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

134. Mr Ling said that the current boundary of “R(D)” zone generally followed the existing physical features, namely the alignment of the existing footpaths and the boundaries of the two existing licensed structures. Consideration might be given to revising the northern boundary of the existing “R(D)” zone taking into account some physical features such as the northern and southern staircases leading to the adjoining “G/IC” zone, subject to the collection of more information about the on-site features and the location of those large mature trees. The proposed zoning boundary of the revised “R(D)” zone should be submitted to the Board for further consideration.

135. The meeting noted that given the concerned area was considered of high ecological value, and that the development and redevelopment right of some private lots with building entitlements within the “R(D)” zone should also be respected, rezoning part of the area under the original “R(D)” zone to an appropriate conservation zone should already be able to strike a balance between the diverging needs of different stakeholders.

136. Mr Ling said that the zoning boundaries should normally be drawn up with reference to the existing land use pattern or on-site physical features rather than simply following the private lot boundary. Quoting the private land in the southern part of the original “R(D)” zone as example, the private land was bisected by the existing footpath forming the southern boundary of the “R(D)” zone and thus the northern and southern parts of the lots were designated as “R(D)” and “CA” respectively.

137. The meeting generally agreed that the original “R(D)” zone would be reduced in area, and that the appropriate zoning for the area excluded from the “R(D)” zone would be worked out afterward taking into account the on-site physical features, conservation value of trees and vegetations, compatibility with the surrounding land uses as well as the planning intention for the area as appropriate.

138. The Secretary informed Members that the proposed amendments to the OZP to partially meet some representations would be published for public inspection and subject to further representations in accordance with the statutory procedure. The proposed amendments to the OZP would be submitted to the Board for agreement prior to the gazetting under the Ordinance. Members agreed.

Other Views

139. A Member suggested that consideration might be given to exploring whether the planning intention of the “R(D)” zone, which was also intended for low-rise, low-density residential developments, should be suitably revised having regard to the general planning intention of the Area which was mainly for conservation of the areas of high ecological value.

140. The Chairman said that the planning intention of the “R(D)” zone, as currently proposed, was consistent with that set out in the MSN. The Member’s views to revise the planning intention of the “R(D)” zone could be further considered in the context of the overall review of the MSN in future.

141. Members then went through PlanD’s responses to the following aspects as stated in paragraph 6 of the Paper:

Group 1 and Group 2 Representations

Burial grounds in the “GB” zones and proposals relating to the “GB” zone

142. A Member indicated that the proposed expansion of the burial ground was not supported. Other Members agreed.

143. Members noted PlanD’s responses to the representations as stated in paragraphs 6.25 to 6.27 of the Paper in that the proposed expansion of burial ground might cause further adverse ecological and landscape impacts on the surroundings; and the Notes for “GB” zone generally followed the MSN.

“V” zone boundary and proposals relating to “V” zone

144. Members noted PlanD’s responses to the representations as stated in paragraphs 6.35 to 6.42 of the Paper in that the boundary of the “V” zone had been drawn up taking account of site conditions of the area within the ‘VE’, existing village clusters, local topography and site characteristics and concerned departmental advice; Small House demand forecast was only one of the factors considered and an incremental approach for designating the “V” zone was adopted; the area proposed for “V” zone expansion was outside the ‘VE’; and the Notes for “V” zone generally followed MSN.

Concerns on education/recreational development in “CA” zone

145. A Member said that although YMCA had submitted a proposal for development of holiday houses in the area for education or recreational purposes during the preparation of the draft OZP, the provision of overnight accommodation was not an essential facility and might cause adverse impact on the surrounding area. There was no strong justification to support the development of holiday house in the area.

146. Members noted PlanD’s responses to the representations as stated in paragraphs 6.22 to 6.23 of the Paper. As the Notes for the “CA” zone generally followed the MSN which included ‘Holiday Camp’ use that might be considered under the planning application system based on individual merits, Members considered that such control was adequate.

Group 1 Representations

Objection to the conservation zonings in Po Toi

147. A Member considered that the “CA” zoning as shown on the OZP were appropriate and agreed to PlanD’s recommendation of not to amend the OZP to meet the related representations of Group 1.

148. Members noted PlanD’s responses to the representations as stated in paragraphs 6.18 to 6.21 of the Paper in that the designation of conservation zonings had taken into account the ecological and scientific values, landscape character, local topography, site

characteristics, stakeholders' views and concerned departmental advice and was considered appropriate; private development rights would not be totally deprived of as there were 'always permitted uses' and uses subject to planning permission under conservation zonings.

Group 2 Representations

Designation of "SSSI" and/or CP

149. Members noted PlanD's responses to the representations as stated in paragraph 6.24 of the Paper in that while the proposal to designate Po Toi as "SSSI" was subject to detailed study, the planning intention to conserve this area had been clearly reflected in the conservation zonings designated on the draft OZP; and the designation of Po Toi Islands as CP/Marine Park was outside the purview of the Board.

Lack of mechanism to protect the mature woodland and control of tree felling

150. Members noted PlanD's responses to the representations as stated in paragraph 6.28 of the Paper in that the mature woodland with high scientific and ecological values had been zoned "CA" for conservation purpose; and there were existing mechanisms to control felling of trees on government land and private land, as appropriate.

151. Members generally agreed that the grounds of representations and comments had adequately been responded to in paragraph 6 of the Paper. Apart from the proposed amendments to the boundary of the "R(D)" zone to partially meet some of the adverse representations as set out in paragraph 137 above, Members considered that there was no need to amend the OZP to meet the remaining representations.

152. After deliberation, the Board noted the supportive views of Representations No. R1(part), R2(part), R3(part), R4(part) and R5(part).

153. After deliberation, the Board decided to partially uphold the Representations No. R3(part), R4(part), R11 to R16, R18 to R38, R41, R42, R44 to R647, R649 to R707, R709 to R721, R727 and R757 to R789 and considered that the Plan should be amended to

partially meet the representations.

154. After deliberation, the Board decided not to uphold the remaining part of Representations No. R1(part), R2(part), R3(part), R4(part), R5(part), R11 to R16, R18 to R38, R41, R42, R44 to R647, R649 to R707, R709 to R721, R727 and R757 to R789, and Representations No. R6 to R10, R17, R39, R40, R43, R648, R708, R722 to R726, R728 to R756 and R790 to R813 and considered that the Plan should not be amended to meet the representations. The reasons were:

- “(a) the general planning intention and designation of “Conservation Area” (“CA”), “Coastal Protection Area” (“CPA”) and “Green Belt” (“GB”) zonings on the draft Outline Zoning Plan (OZP) have duly reflected the habitats of high ecological and scientific values in the Area, as well as landscape character, local topography, site characteristics, stakeholders’ views and concerned departments’ advice (R1 to R6 and R11 to R813);
- (b) the “CA”, “CPA” and “GB” zones are designated to duly reflect the planning intention of the Area to protect the natural landscape with high ecological and scientific values that are worthy of conservation (R7 to R10);
- (c) private land would not be resumed for nature conservation purpose per se according to the prevailing government policy. The development rights of the respective private land owners would, however, not be totally deprived as the land can be put to ‘always permitted uses’ and other uses as long as planning approval is obtained. The draft OZP would not in any way affect the owners’ right to assign or transfer the interests in their land, the designation of “CA” zone on the draft OZP would not contradict Articles 6 and 105 of the Basic Law (R7 to R10);
- (d) the designation of “CPA” zoning has no implication on the enforcement under the Marine Park and Marine Reserves Regulation (Cap. 476A) (R7 and R8);

- (e) the Notes of the “CA” zone generally follows the Master Schedule of Notes to Statutory Plans (MSN) including uses like ‘Holiday Camp’ that may be considered by the Town Planning Board (the Board) under the planning application system to allow flexibility for provision of different facilities that may be compatible with the surrounding area for public use/enjoyment. Each application would be considered by the Board based on its own merits taking account of the prevailing planning circumstances (R8, R13, R15, R16, R18, R19, R45, R55, R60, R62 to R287, R289 to R501, R503 to R589, R591 to R625, R648, R663 to R706, R722 to R724, R726 to R729, R751, R755 and R756);
- (f) while the proposal to designate Po Toi as “Site of Special Scientific Interest” (“SSSI”) is subject to detailed study, the planning intention to conserve this area has been clearly reflected in the conservation zonings designated on the draft OZP. The designation of Country Park/Marine Park is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) and Marine Parks Ordinance (Cap. 476) which are outside the purview of the Board (R3, R4, R11 to R14, R17 to R19, R40, R43, R45, R55, R59, R61, R62, R71 to R74, R77, R80 to R317, R319 to R352, R354 to R621, R623 to R676, R678 to R686, R695 to R720, R725, R727, R729 to R734, R738 to R750, R752 to R756, R759 to R764 and R790 to R796);
- (g) the control of burial activities within and outside the permitted burial grounds is considered appropriate as burial activities including provision of new graves within the permitted burial grounds are generally tolerated under the draft OZP but separately administered by the District Officer/Islands, Home Affairs Department. Other ‘Burial Ground’ use outside these permitted burial grounds would require planning permission (if applicable) from the Board (R6, R7, R14 and R808);
- (h) the proposed expansion of burial ground near Tai Wan Pier may cause further adverse ecological and landscape impacts on the surroundings.

There are also no sufficient justification and assessment to support the proposal (R6);

- (i) the Notes of the “GB” zone generally follows MSN including uses that may be considered by the Board under the planning application system. This allows flexibility for provision of different facilities that may be compatible with the surrounding area for public use/enjoyment. Each application would be considered by the Board based on its own merits taking account of the prevailing planning circumstances (R14);
- (j) mature woodlands with high scientific and ecological values have been zoned “CA” for conservation purpose. There are also existing mechanisms to control felling of trees on government land (e.g. Development Bureau Technical Circular (Works) No. 10/2013, “*Tree Preservation*”) and private land (e.g. via land lease conditions and Lands Administration Office Practice Notes (LAO PN) No. 7/2007, “*Tree Preservation and Tree Removal for Building Development in Private Projects*”), as appropriate (R13 and R18);
- (k) there is insufficient information to demonstrate that the proposed columbarium/memorial garden development would not have adverse impacts on environmental, visual, landscape, traffic, public order and infrastructural aspects. The benefits and impacts of the proposed development cannot be ascertained at this juncture (R9 and R10);
- (l) there is no evidence or information to establish that there is any existing ‘Columbarium’/‘Memorial Garden’ use in Po Toi. Even if the alleged ‘Columbarium’ and/or ‘Memorial Garden’ use is an ‘Existing Use’ (‘EU’) under the Town Planning Ordinance (the Ordinance), it does not necessarily mean that the EU could meet relevant legislation and government requirements including the conditions of the lease concerned (R10);

- (m) it would be premature to assume that, by virtue of the fact that a columbarium development that has joined the Notification Scheme under the Private Columbaria Bill, the concerned columbarium development would be eligible to apply for exemption under the future licensing regime (R10);
- (n) the “Residential (Group D)” (“R(D)”) zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. Its boundary has been drawn up taken into account the land status, ecological and landscape values, locations of existing domestic structures/squatters and site characteristics. The Notes of the “R(D)” zone generally follows MSN including uses which may be considered by the Board under the planning application system. This is to allow flexibility for new house development and/or provision of different facilities that may be compatible with the surrounding area for public use/enjoyment. Each application would be considered by the Board based on its own merits taking account of the prevailing planning circumstances (R1 to R4, R11 to R38, R41, R42, R44 to R647, R649 to R707, R709 to R721, R727 and R757 to R789);
- (o) the planning intention of the “Village Type Development” (“V”) zone is to designate both existing recognised village and areas of land considered suitable for village expansion. The boundary of the “V” zone has been drawn up taking account of site conditions of the area within the village ‘environ’ (‘VE’), existing village clusters, local topography and site characteristic. The Small House demand forecast is only one of the factors in drawing up the “V” zone boundary. An incremental approach for designating the “V” zone for Small House development has been adopted with an aim to confine Small House development at suitable locations (R1, R2, R6 to R8, R11, R12, R14, R16 to R19, R39, R40, R52, R54, R55, R57 to R244, R246 to R342, R344 to R558, R560 to R623, R625 to R637, R639 to R645, R648, R649, R677, R700, R727 to R737

and R757 to R789);

- (p) the Notes of the “V” zone generally follows MSN which include Columns 1 and 2 uses to duly reflect its planning intention and to allow flexibility for provision of different facilities that may be compatible with the surrounding area for public use/enjoyment. Uses that may impose adverse impacts on the surroundings have been put in Column 2 uses in the Notes of the “V” zone so that planning application to the Board is required. Each application would be considered by the Board based on its own merits taking account of the prevailing planning circumstances (R6 to R8, R11, R12, R14, R16 to R19, R39, R40, R52, R54, R55, R57 to R244, R246 to R342, R344 to R558, R560 to R623, R625 to R637, R639 to R645, R648, R649, R677, R700, R727 to R737 and R757 to R789);
- (q) under the prevailing Small House policy administrated by the Lands Department, land for building Small House is confined to areas within ‘VE’. The indigenous inhabitants’ representative in southern Lamma Island can apply and build Small House at Po Toi only if they have obtained suitable private land and the proposed Small House must be built within the lot boundaries of the lot under application. Besides, sufficient land has been reserved for Small House development in southern Lamma Island (R6 to R8, R11, R12, R14, R16 to R19, R39, R40, R52, R54, R55, R57 to R244, R246 to R342, R344 to R558, R560 to R623, R625 to R637, R639 to R645, R648, R649, R677, R700, R727 to R737 and R757 to R789);
- (r) the need and timing of provision of infrastructure and government, institution or community (GIC) facilities in the Area would depend on, inter alia, population, provision standards and resources availability in consultation with relevant government departments. While provision of infrastructure and GIC facilities coordinated by government departments is generally always permitted under the draft OZP, such works within the “CA” and “CPA” zones involving filling of land/pond, excavation of land

and diversion of stream would require planning permission from the Board. The Board will consider each application on its individual merits (R7 and R8); and

- (s) consultations with the Islands District Council, the Lamma Island (South) Rural Committee and local residents of Po Toi have been conducted during the preparation of the draft OZP. Besides, the statutory plan-making process, which involves the exhibition of the draft OZP for public inspection, submission of representations and comments by the public, as well as the hearing of representations and comments received, is itself a public consultation process under the Ordinance (R7 and R10).”

Agenda Item 2

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

155. There being no other business, the meeting closed at 6:00 p.m.