

**Minutes of 1118<sup>th</sup> Meeting of the  
Town Planning Board held on 5.8.2016**

**Present**

Permanent Secretary for Development  
(Planning and Lands)  
Mr Thomas C.C. Chan

Chairman

Professor S.C. Wong

Vice-chairman

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Professor K.C. Chau

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Ms Christina M. Lee

Dr F.C. Chan

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Mr Stephen L.H. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Director of Lands

Ms Bernadette H.H. Linn

Assistant Director (Environmental Assessment)

Environmental Protection Department

Mr Ken Y.K. Wong

Principal Assistant Secretary (Transport 3)

Transport and Housing Bureau

Mr Andy S.H. Lam

Chief Engineer (Works), Home Affairs Department

Mr Martin W.C. Kwan

Director of Planning

Mr K.K. Ling

Deputy Director of Planning/District

Mr Raymond K.W. Lee

Secretary

**Absent with Apologies**

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Ms Janice W.M. Lai

Mr H.F. Leung

Mr Stephen H.B. Yau

Dr Frankie W.C. Yeung

Mr K.K. Cheung

Mr T.Y. Ip

Dr Lawrence K.C. Li

Professor T.S. Liu

**In Attendance**

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Ms Lily Y.M. Yam

Senior Town Planner/Town Planning Board

Ms Karen F.Y. Wong

**Agenda Item 1**

[Open meeting]

**Confirmation of Minutes of the 1117<sup>th</sup> Meeting held on 22.7.2016**

[The meeting was conducted in Cantonese.]

1. The minutes of the 1117<sup>th</sup> meeting held on 22.7.2016 were confirmed without amendments.

[Ms Bernadette H.H. Linn, Miss Winnie W.M. Ng and Mr Franklin Yu arrived to join the meeting during Agenda Item 2.]

**Agenda Item 2**

Matters Arising

[Confidential Item] [Closed Meeting]

2. This item was recorded under confidential cover.

**Hong Kong District**

**Agenda Item 3**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/HK/10

Proposed Utility Installations for Private Project (Tram Power Substations) in areas shown as 'Road' at Site (1) Footpath and Planter Area Underneath the Elevated Canal Road Flyover No. H110 between Pier No. 25 and No. 26 at Morrison Hill Road, Wong Nai Chung, and Site (2) Island Planter surrounded by Irving Street and Yee Wo Street, Adjacent to the Causeway Bay Tram Terminus, Causeway Bay

(TPB Paper No. 10147)

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[The item was conducted in Cantonese.]

**Presentation and Question Sessions**

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

Ms Ginger K.Y. Kiang                      District Planning Officer/Hong Kong (DPO/HK),  
PlanD

Ms Irene W.S. Lai                         Senior Town Planner/Hong Kong 2 (STP/HK2),  
PlanD

Mr Emmanuel Vivant                    ]  
Mr Ernest Wong                         ]  
Mr Steven Chan                         ]    Applicant's representatives  
Mr Ted Lam                                ]  
Ms Sarah Lee                              ]  
Ms Lam Ka Ka                             ]  
Mr Benjamin Lee                        ]  
Mr William Leung                       ]

4.            The Chairman extended a welcome and explained the procedure of the hearing. He then invited PlanD's representatives to brief Members on the background of the review application.

5.            With the aid of a PowerPoint presentation, Ms Irene W.S. Lai, STP/HK2, made the following main points as detailed in the Paper:

- (a) on 9.12.2015, Hong Kong Tramways Limited (HKT) sought planning permission for two proposed tram power substations i.e. the proposed Morrison Hill Road Substation (MHR Substation) at Morrison Hill Road (Site (1)) and the proposed Causeway Road Substation (CWR Substation) at the island planter adjacent to the Causeway Bay Tram Terminus (Site (2)) to replace the existing tram power substation at Times Square (TSQ Substation). Site 1 and Site 2 fell within areas shown as 'Road' on the draft Wong Nai Chung Outline Zoning Plan (OZP) No. S/H7/18 and the draft Causeway Bay OZP No. S/H6/15 respectively;

- (b) Site 1 was located at the footpath and planter area at Morrison Hill Road underneath the elevated Canal Road Flyover and consisted of a substation and a pillar box with a building height of 4.3m and 3.6m respectively. The proposed substation and pillar box were setback from the tram tracks by about 0.5m and were connected by underground cable and ducts. A car parking space was also proposed for parking of maintenance vehicle;
- (c) Site 2 was located to the east of Regal Hong Kong Hotel near the junction of Irving Street and Yee Wo Street and consisted of a substation and a pillar box of 3.5m and 3.7m in height respectively. Two mobile toilets were proposed for staff use, a car parking space for maintenance vehicle and a 3.8m high boundary fence with vertical greening were also proposed;
- (d) on 5.2.2016, the Metro Planning Committee (MPC) decided to reject the application on the following grounds:
  - (i) the proposed developments would generate adverse visual impact on the area;
  - (ii) the applicant failed to demonstrate that the sites were the most suitable locations for the substations given the proposed developments would have adverse visual and landscape impacts on the surrounding areas; and
  - (iii) the proposed substations would result in the removal of some existing amenity plantings. The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in a degradation of the amenity of the urban area;
- (e) in rejecting the application, the MPC also raised concerns on the possibility of retaining the existing TSQ Substation at Times Square, the availability of alternative substation sites, the visual impacts and the possibility of lowering the building height of the proposed substations, shifting them to underneath the flyover or providing them underground;

- (f) on 9.3.2016, the applicant applied for a review of the MPC's decision to reject the application with the following main justifications:
- (i) electricity for tram operation was mainly supplied by seven electricity substations distributed approximately in equal distance along the 13km long tram track from Kennedy Town to Shau Kei Wan so that fluctuation of electrical voltage of the overhang cable could be kept at the minimal;
  - (ii) during the redevelopment of the previous Sharp Street tram depot into the Times Squares in 1980s, one of the major power substations providing electricity supply for tram service in the Causeway Bay and Happy Valley area was relocated to the basement of Times Square. In 2013, HKT was informed by the landowner that the TSQ Substation had to be moved out of Times Square upon expiry of the lease. HKT had been liaising with the landowner on extending the lease and an agreement was reached that the lease could be extended to 31.3.2018 to allow time for the construction of new substations to replace the TSQ Substation;
  - (iii) the landowner stated firmly that they needed to regain the area occupied by the TSQ Substation to accommodate their new substation to provide additional power capacity for the building and no further extension of the lease should be possible, despite HKT's preference to continue to pay commercial rent and remain in the premises. HKT had been working on the relocation programme since 2013;
  - (iv) the existing TSQ Substation occupied a strategic location covering two distinct portions of the tram line and it was not possible to seek a suitable site for a new substation location near Times Square with the same size as the existing TSQ Substation (around 95m<sup>2</sup>) with sufficient headroom for installation of the necessary equipment. Hence, two substations were required;
  - (v) HKT had considered six alternative locations along the section of tram line in question including sites near Wong Nai Chung tram terminus and spaces underneath elevated walkways/flyovers but they were found not suitable because of insufficient space/headroom and presence of

underground box culvert. The alternative site underneath Tsing Fung Street Flyover proposed by a Member of the MPC was outside the existing TSQ Substation power supply zone between Tin Lok Lane and Tin Hau MTR Station. It was not acceptable to the Hong Kong Electric Limited (HKE) and there was insufficient headroom for maintenance of the flyover;

- (vi) the other concerns/suggestions raised by members at the s.16 stage had been addressed/considered. The height of the pillar box of the MHR Substation was specified by HKE and there was insufficient headroom for the maintenance of Canal Road Flyover if the MHR Substation was shifted underneath the flyover. The proposed CWR Substation site was surrounded by tram tracks and there was no room for shifting the proposed substation. Constructing the proposed substations underground would involve deeper excavation, provision of service lift/staircase and result in bulkier building and greater impacts. Outdoor basement substation was prone to greater flooding risk and should not be adopted from power supply safety and reliability perspectives; and
- (vii) a revised landscape proposal for the proposed CWR Substation was submitted to improve the quality and quantity of the greenery of the island planter;
- (g) previous applications - the application sites were the subjects of two previous applications submitted by HKT for the same tram power substations, which were considered by the Committee on 3.7.2015. The Committee decided to defer a decision on the two applications pending further submission from the applicant to address the concerns raised by the Committee at the meeting. The applications were withdrawn by the applicant on 6.10.2015;
- (h) similar applications – there was no similar application in the OZP areas;
- (i) public comments - among the total of seven comments received with six raised objection or adverse comments while the remaining one did not indicate support/objection to the application, but expressed similar concerns raised by

the others. The main public concerns were related to the relocation need of TSQ Substation, the provision of essential utility installations upon redevelopment of public utility site, the visual impact of the proposed substations, the decrease in greening facilities and the resulting air quality, environmental, ecological, hygiene and road safety impacts;

- (j) departmental comments – the Secretary for Transport and Housing (STH) supported the review application from policy point of view as a stable power supply was required for the tramway operation, which was an important public transport service on the Hong Kong Island. The Commissioner for Transport (C for T) considered that the application sites were suitable for the proposed substations and had no in-principle objection to the review application. The District Lands Officer/ Hong Kong East, Lands Department (DLO/HE, LandsD) advised that there was no requirement in the lease for provision of substations in Time Square for the tram operation. The Chief Town Planner/Urban Design and Landscape, PlanD considered that the land area for the proposed substation developments was practical minimum and no adverse visual, wind environment and landscaping impacts were anticipated;
- (k) PlanD's views - there was no objection to the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper which were summarized below :

Need for Relocation of the TSQ Substation

- (i) there was no requirement in the lease of the lots covering Times Square nor in the planning permission governing the provision of a substation for tramways within Times Square;
- (ii) the lease of the existing TSQ Substation was only extended to 31.3.2018 to allow time for construction of the replacement substations. STH reiterated his policy support for the application from the angle of public transport policy;

### Site Selection

- (iii) the site underneath the Tsing Fung Street Flyover proposed by the MPC was outside the existing TSQ Substation power supply zone. The available headroom was insufficient for building a substation and power transmission cables and utility facilities underneath might be adversely affected;
- (iv) HKT had also considered other alternative sites and provided information to explain that those sites were not selected due to site constraints, i.e. insufficient space/headroom or presence of box culvert, visual concern or affecting pedestrian crossing. HKT confirmed that the proposed sites at Morrison Hill Road and Causeway Road were the only suitable sites taking account of site area, proximity to HKE supply, minimum influence on pedestrian or traffic flow and meeting the power supply voltage requirement for the tramways;
- (v) relevant departments consulted had no comment on the technical considerations in respect of site selection put forth by HKT. C for T advised that the application sites were suitable locations for setting up the power substations for the whole tramway network;

### Minimising Visual Impacts

#### *Proposed MHR Substation – Height and Location of Pillar Box*

- (vi) the proposed MHR Substation was to accommodate the original equipment of the existing TSQ Substation. The currently proposed height was already the minimum technical requirements specified by HKE. Shifting the pillar box to the northeast directly underneath the Canal Road Flyover would render maintenance at that flyover portion impossible;
- (vii) relevant departments had no comment on the detailed engineering design and siting of the proposed pillar box;

*Proposed CWR Substation*

- (viii) underground Option – the applicant had explained that the application site was only marginally adequate for a new substation. There was inadequate space to accommodate the additional area required for access corridors, lift shaft for handling of equipment, accessing staircase and meeting fire services requirements for underground substation; deep excavation would result in unavoidable nuisance; greater visual impact would be caused by the lift tower which would be taller than the current proposal; and that outdoor basement substation would be prone to greater flooding risk that it should not be adopted from power supply safety and reliability perspective;
- (ix) relevant departments had no comment on the planning and technical considerations put forth by HKT for not adopting the underground design;
- (x) landscape design – to further address the concern on the potential visual impact, HKT had submitted a revised landscape proposal for the CWR Substation which showed an improvement of the green wall and green roof design as compared to the s.16 proposal. An approval condition requiring the submission and implementation of landscape proposal could be imposed and the applicant could be advised to take note of departments’ detailed comments should the Board approve the application;

Overall Planning Assessment

- (xi) with regard to the planning intention, the proposed substations would not affect other road users and would not unduly compromise the ‘Road’ function set out in the OZP. There was no significant impact on traffic and highway structures. The proposed MHR Substation was surrounded by heavily trafficked roads and flyovers, site and scale of the proposed development was relatively small and was generally in line with the uses beneath flyover stated in the Hong Kong Planning Standards and Guidelines. The scale of the proposed CWR Substation was not

unacceptable within the urban setting. There was no objection from the relevant Government departments on the technical aspects.

6. The Chairman then invited the applicant's representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr Emmanuel Vivant and Mr Steven Chan made the following main points:

- (a) the tram line was currently served by seven substations, each providing electricity supply to about 2km to 2.5km of the tramline. The TSQ Substation was re-provisioned at Basement 3 of Times Square when the tram depot was redeveloped in 1989. HKT was paying commercial rent for the space occupied by the TSQ Substation;
- (b) the lease for the TSQ Substation would expire on 31.3.2018. Despite repeated negotiations with the landlord, the lease could not be extended any further;
- (c) the proposed substations were not power generating facilities and had no emission and would not cause environmental pollution. They were necessary to convert alternating current (AC) voltage to direct current (DC) voltage for tram operation;
- (d) the existing TSQ Substation was located strategically to provide power supply to the tramline from Tin Lok Lane to Tin Hau and the Happy Valley Loop. Due to resistive loss in the overhead power line, the voltage would drop the further it was from the substation. Providing only one substation at either Causeway Road or Morrison Hill Road would result in a drop in voltage at the other end of the tram line to a point below the power supply requirement for tram operation;
- (e) HKT had considered alternative sites along Hennessy Road, Yee Wo Street, Gloucester Road (near Victoria Park) as well as the Tsing Fung Street site proposed by a Member of the MPC. However, none of the alternative sites were suitable due to insufficient space and/or headroom, and constraints imposed by the existing underground utilities;
- (f) the applicant had minimised the visual impact of the proposed substations by keeping its development scale to the minimum required. No trees would be

removed. The shrubs affected were of common species and they would be replanted. Landscaping and green wall/roof area would also be provided; and

- (g) the schedule for relocating the substation was very tight as the lease with Times Square would expire in 2018. HKT would not have any financial gain in the relocation of the substation. On the contrary, the relocation exercise involved a capital investment of \$30 million in order to maintain the necessary tram service.

7. As the presentation from PlanD's representatives and the applicant's representatives had been completed, the Chairman invited questions from Members.

8. Three Members raised the following questions :

- (a) whether the mobile toilets included in the proposed CWR Substation were existing ones at the Yee Wo Street Causeway Bay Tram Terminus or newly proposed for the substation;
- (b) whether the boundary wall surrounding the two building structures of the proposed CWR Substations was solid structure, and whether the proposed vertical greening was provided on the boundary wall or the building façade of the Substation;
- (c) the power supply capacity of the proposed CWR Substation and MHR Substation as compared with that of the TSQ Substation;
- (d) who held the 'key' for the TSQ Substation for operation and maintenance, and what the ownership of the other six substations supporting the tramway was; and
- (e) noting that TSQ Substation was scheduled for decommissioning in October/November 2017 while the installation of electrical works for the MHR Substation would be completed in March 2018, how the tramway would obtain electricity supply in the interim period.

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

9. In response to Members' questions above, Mr Emmanuel Vivant, Mr Ernest Wong, Mr Steven Chan and Mr Ted Lam, the applicants' representatives, made the following main points:

- (a) the two mobile toilets had been in existence at the proposed CWR Substation site since 1998 and HKT planned to make use of the opportunity to improve the visual quality of the toilets. HKT currently employed contactors to clean and maintain the mobile toilets;
- (b) the existing TSQ Substation had a capacity of 1,000kilo-watt (kW). The existing transformer at the TSQ Substation would be relocated to the proposed MHR Substation while a new transformer of 1,000kW capacity would be installed in the proposed CWR Substation. As electricity voltage would drop over distance and the two proposed Substations were located further away from the tram line, two substations each with a capacity of 1,000kW were required to ensure electricity voltage supply along the tram line would not drop below the minimum operational requirement of 400V;
- (c) HKT was the tenant of the premises of the TSQ Substation within Times Square. HKE held the 'key' for the operation of the TSQ Substation and also maintained its equipment. For the other six substations, HKT owned and maintained the substation at Whitty Street tram depot and the others were owned and maintained by HKE;
- (d) HKT would commission the proposed CWR Substation first before decommissioning the TSQ Substation to support the tram service. The civil works of the proposed MHR Substation would also be completed earlier so that the equipment from the TSQ Substation could be relocated there as soon as possible. During the interim period, the provision of tram service would be affected but could still continue through controlling the number of tram movements in the area and drawing support from other substations; and
- (e) the boundary wall of CWR Substation would be in the form of metal frame which could be readily dismantled to provide maintenance access. Vertical greening with water supply and drainage systems would be provided on the metal frame to form a green wall around the Substation.

10. A Member had the following further questions :
- (a) for the proposed CWR Substation, whether there was any greening on its side facing Causeway Road and the gap between the two building structures and the boundary wall; and
  - (b) the greening provision of the proposed MRH Substation needed to be clarified.

11. In response to the Member's questions above, Mr Ernest Wong, Mr Steven Chan and Mr Ted Lam made the following main points:

- (a) parts of the façade facing Causeway Road at the proposed CWR Substation had no green wall as there were doors and louvers on those parts which could not support vertical greening. Greening and landscaping could not be provided in spaces/gaps between the green walls and the building structures as those spaces were required for access during maintenance/repair, especially when installing/removing the transformer which was large in size; and
- (b) the proposed MHR Substation would only have vertical greening on the side facing Morrison Hill Road and no rooftop greening would be provided. No vertical greening would be provided for the pillar box.

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

[Mr David Y.T. Lui left the meeting at this point.]

#### Deliberation

13. Noting that Ms Christina M. Lee had arrived to join the meeting during the question and answer session, the meeting agreed that Ms Christina M. Lee should not participate in the discussion of the review application.

14. Mr Alex T.H. Lai said that he noted from the presentation of the applicant's representatives that Harriman Leasing was acting on behalf of Times Square Limited. As his firm had business dealings with Harriman Leasing and also involved in providing advice on the dispute on the use of the public open space in Times Square, he would not participate in the deliberation of the review application. The meeting agreed.

15. Upon the Chairman's invitation, Mr Andy S.H. Lam, Principal Assistant Secretary (Transport 3), Transport and Housing Bureau (THB) said that THB had been encouraging the public to use public transport. The tram had a well established history in Hong Kong in providing reliable public transport service at low cost. THB would support proposals that would ensure reliability of tram services. He understood that TD had maintained close liaison with HKT in the site identification and selection stage. Among the various sites selected for assessment, the two sites under the current applications were considered the most suitable. THB supported the subject application.

#### *Need for the Proposed Substations*

16. A Member said that normally, the electricity company owned and operated electricity substations to supply electricity to users and it was unusual that the electricity substation would be forced to move out. For the premises accommodating the TSQ Substation, due to some historical reasons, it was owned by the developer rather than HKT or HKE. There was a doubt on whether the landlord of Times Square had the right to force HKT to move out the TSQ Substation. Based on the applicant's information, it appeared that the proposed CWR Substation alone was sufficient to provide power supply to the concerned section of tram line while the relocation of the TSQ Substation to the proposed MHR Substation was for back up purpose only.

17. Another Member said that in terms of capacity, a 1,000kW Substation was not large in scale, which might not even be able to support a large scale commercial building. The two proposed substations might ensure a more steady electricity supply and provide flexibility for HKT to further develop its service, such as providing air-conditioned trams. The relocation of the substation from Times Square to the two proposed sites, which were closer to the tram line, had the advantage of enhancing the electricity transmission efficiency. The schedule for the construction of the proposed substations was logical and practical.

18. Some Members said that in rejecting the application at the s.16 stage, the Committee raised concerns that as Times Square was redeveloped at the then tram depot site, the substation supporting the tram operation should be accommodated within the Times Square site. Noting that for some historical reasons, the provision requirement for the substation for the tram operation was not imposed in the lease upon redevelopment of the then tram depot into Times Square. HKT currently had to deal with the situation where the landlord of Times Square would not further extend the tenancy of the premises of the TSQ Substation, and had to identify new sites for the substation to ensure uninterrupted tram services. Given the urgency for the relocation of the TSQ Substation and the proposed sites were considered the most suitable in the area after conducting a detailed site search exercise by the application, sympathetic consideration could be given to the application.

#### *Landscaping of the Substations*

19. A few Members considered that the landscaping/greening of the two proposed Substations was still unsatisfactory. In particular, the green wall of the proposed CWR Substation appeared solid and monotonous, and there was also doubt on whether well vegetation cover could be maintained on the green wall. While there was no objection to the substation development at the two Sites to support the tram operation, the applicant should be requested to further enhance the landscaping/ greening of the two proposed substations, and the mobile toilets at the proposed CWR Substation.

20. Noting the small size of the application sites, a Member said that the scope for further greening enhancement was limited. For the proposed CWR Substation, the site was too small for providing planters for greening and vertical greening appeared to be the only option to provide greening for ameliorating the visual impact. Another Member suggested that sustainable planting should be adopted for the proposed substations.

#### *Setting Precedent*

21. A Member asked whether the approval of the subject application would set an undesirable precedent which was one of the rejection reasons at the s.16 stage. Two Members had the following main views:

- (a) the concern on setting of an undesirable precedent for similar applications was related to the degradation of the amenity planting of the urban area. With

suitable greening and landscaping design, the concern should be addressed;  
and

- (b) given the importance of ensuring electricity supply for the tram operation which was a special circumstance of the subject case, the application, if approved, would not set a precedent.

22. The meeting noted that Members generally had no objection to the application, and the concern on the landscape treatment of the two Substations could be addressed by imposing an approval condition on the submission and implementation of a landscaping proposal taking into account Members' views. To address Members' concern on the visual impact of the mobile toilets, the meeting agreed that an advisory clause requiring the applicant to explore landscaping and urban design measures to enhance the visual quality of the mobile toilets in the CWR Substation should also be included.

23. After further deliberation, the Board decided to approve the application, on the terms of the application as submitted to the Board. The permission should be valid until 5.8.2020, and, after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following approval conditions:

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- (a) the submission and implementation of a landscape and tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
  - (b) the provision of a crash gate for the car parking space for maintenance vehicles at the application sites, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
  - (c) the submission and implementation of safety measures during maintenance vehicles' access to and exit from the application sites, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
  - (d) the submission of a technical assessment on the potential structural

implication of the proposed substations to the existing highway structure and the impact on the decked nullah no. Hdn13 near the proposed Morrison Hill Road Substation, and implementation of any design measures identified therein to the satisfaction of the Director of Highways or of the Town Planning Board before commencement of the proposed works;

- (e) the relocation of the existing portable planter, reprovisioning of the raised-up planter and transplanting of the existing greenery on the raised-up planter which will be affected by the proposed Morrison Hill Road Substation to the satisfaction of the Director of Leisure and Cultural Services and Director of Highways or of the Town Planning Board before commencement of the proposed works;
- (f) the provision of a 7.5m wide drainage reserve within the proposed Causeway Road Substation to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (g) the submission and implementation of diversion proposals of any affected fresh water mains (including waterworks reserve proposals) to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (h) the provision of fire service installations and water supplies for fire fighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.”

24. The Board also agreed to advise the applicant to note the advisory clauses as set out in Annex G of the Paper as well as the additional advisory clause set out below :

“(n) to explore landscaping and urban design measures to enhance the visual quality of the mobile toilets in the proposed Causeway Bay Road Substation.”

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

[Mr H.W. Cheung left the meeting at this point. Mr Martin W.C. Kwan left the meeting temporarily at this point.]

**Sha Tin, Tai Po and North District**

**Agenda Item 4**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/ST/888

Proposed Single House Development in “Green Belt”, “Government, Institution or Community” and “Residential (Group B)” Zones, Lots 379 and 380RP in D.D. 186 and adjoining Government Land, Sha Tin

(TPB Paper No. 10149)

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[The meeting was conducted in Cantonese.]

25. The Secretary reported that LWK & Partners (HK) Ltd. (LWK), MVA Hong Kong Ltd. (MVA) and Ove Arup & Partners Hong Kong Ltd. (ARUP) were three of the consultants of the applicant. The following Members had declared interests in the item for having business dealings or affiliation with LWK, MVA and/or ARUP:

- |                     |   |  |
|---------------------|---|--|
| Mr Ivan C.S. Fu     | - | being the director and shareholder of LWK and having current business dealings with MVA and ARUP |
| Mr Patrick H.T. Lau | - | having current business dealings with MVA and ARUP   |
| Mr Thomas O.S. Ho   | - | having current business dealings with MVA  |
| Mr Stephen L.H. Liu | - | having current business dealings with LWK  |
| Mr Alex T.H. Lai    | ] | their firm having current business dealings with ARUP  |
|                     | ] |  |
| Mr K.K. Cheung      | ] |  |

Professor S.C. Wong (Vice-chairman) - being an engineering consultant of ARUP and the Chair Professor and Head of Department of Civil Engineering of the University of Hong Kong where ARUP had sponsored some activities of the Department before

Mr Franklin Yu ] having past business dealings with MVA and ARUP  
] ]  
Mr Dominic K.K. Lam ]

26. Members noted that Mr Ivan C.S. Fu and Mr. K.K. Cheung had tendered apologies for being unable to attend the meeting. As the interests of Mr Franklin Yu and Mr Dominic K.K. Lam were remote, and the Vice-chairman, Mr Patrick H.T. Lau, Mr Thomas O.S. Ho, Mr Stephen L.H. Liu and Mr Alex T.H. Lai had no involvement in the application, Members agreed that they should be allowed to stay in the meeting.

Presentation and Question Sessions

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

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

LWK & Partners (HK) Ltd

Mr Joseph Chan ]  
Mr Matthew Law ] Applicant's representatives  
Mr Danny Lui ]

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

29. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, made the following main points as detailed in the Paper:

- (a) on 14.9.2015, the applicant sought planning permission for a single house development at the application site (the Site). The Site with an area of about 18,550m<sup>2</sup> (including about government land of 3,140m<sup>2</sup>) fell mainly within an area zoned “Green Belt” (“GB”) (85.7%) with a small portion in “Government, Institution or Community” (“G/IC”) (9.6%) and “Residential (Group B)” (“R(B)”) (4.7%) zones on the approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/32;
- (b) on 19.2.2016, the Rural and New Town Planning Committee (RNTPC) of the Board decided to reject the application and the reasons were:
  - (i) the proposed development was not in line with the planning intention of “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development in “GB” zone and no strong planning justifications had been provided in the submission for a departure from this planning intention;
  - (ii) the proposed development was not in line with the Town Planning Board Guidelines No. 10 (TPB PG-No. 10) in that there were no strong justifications for the proposed development and its site formation works which would involve extensive clearance of existing natural vegetation and adversely affect the existing natural landscape;
  - (iii) the applicant failed to demonstrate the feasibility of the substantial road widening works and that the proposed development would not have adverse traffic impact on the surrounding areas; and
  - (iv) approval of the application would set an undesirable precedent for other similar development proposals in the “GB” zone. The cumulative impact of approving such applications would result in adverse impacts on the environment, infrastructure capacity and landscape character of the area;

- (c) on 10.3.2016, the applicant applied for review of the RNTPC's decision to reject the application with the following main justifications:
- (i) the current application, which included the reasonable building entitlement right, was in line with the planning intention of the "GB" zone, and would not set an undesirable precedent;
  - (ii) for Lot 379, the entitled gross floor area (GFA) should be 238m<sup>2</sup> as it had no site coverage restriction in the lease. For 380RP, the nine squatter structures totalling 764.11m<sup>2</sup> should also be included in the building entitlement in accordance with GEO Circular No.3. Another GFA of 833.89m<sup>2</sup> should be considered as bonus GFA arising from the proposed widening and drainage upgrading at Tung Lo Wan Hill Road, proposed footpath connecting Tung Lo Wan Hill Road and To Fung Shan Road, and improved landscaping and greening;
  - (iii) the proposed road widening works would be managed and maintained by the applicant. The works might involve the land right issue and might affect the slopes and trees along Tung Lo Wan Hill Road, which was subject to further feasibility study. The applicant indicated that the proposed works could be taken out from the development scheme subject to the Board's consideration;
  - (iv) effort had been made to minimise the disturbance to the Site; and
  - (v) no adverse traffic impact on the surrounding area was anticipated from the current proposal. The applicant might consider not providing the additional two parking spaces subject to the Board's consideration;
- (d) previous applications - the Site was the subject of seven previous s.16 planning applications with one approved with conditions, two withdrawn and the other four rejected generally on grounds similar to the rejection reasons of the subject application at the s.16 stage. The proposed development scheme under the approved application No. A/ST/673 involved a single house development on existing platform without any additional clearance of natural vegetation or impact on the existing natural landscape, nor a road widening

proposal. It was approved mainly on consideration that the proposed development intensity was compatible with the surrounding environment and no extensive clearance of vegetation would be involved. It would have a plot ratio (PR) of 0.034, GFA of 518.17m<sup>2</sup>, building height of 16m (3 storeys over 1-storey carport) and two parking spaces. The Site was also the subject of two previous s.12A applications for zoning amendment. The one proposing to rezone the site to “Residential (Group C)4” was withdrawn while the one proposing to rezone it to “CDA(2)” was rejected;

- (e) similar application - there was one similar application for proposed residential development in “GB” zone at To Fung Shan for 55 houses with a PR of 0.4. The application was rejected by the RNTPC on 8.5.1998 on the grounds similar to those of the subject application at the s.16 stage and, in addition, that the existing water supply system was unable to meet the demand generated by the proposed development;
- (f) public comments - a total of 19 public comments were received and all objected to the application mainly on the grounds that (i) there would be adverse traffic impact along Tung Lo Wan Hill Road and To Fung Shan Road, and negative impact on the water quality of the adjacent service reservoir; (ii) the proposed development was not compatible with the surrounding “GB” area and the extensive vegetation clearance would damage the existing natural environment; (iii) the substantial works would have adverse impacts on the village’s Fung Shui and life, health and property of the nearby villagers; (iv) the proposed development was not in line with the planning intention of “GB” zone and would set precedent for residential developments; (v) the previous approved scheme (No. A/ST/673) was approved due to no extensive vegetation clearance involved and was not comparable to the current case; and (vi) the proposed construction of the footpath would cause adverse impact on slope safety and the extensive vegetation clearance would result in habitat fragmentation within the dense natural woodland;
- (g) PlanD’s views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper which were summarized below :

- (i) the Site was located on sloping ground and formed part and parcel of a larger “GB” zone which was mostly covered with dense vegetation and mature trees serving as a green backdrop to the area. The proposed development was considered not in line with the planning intention of the “GB” zone and there were no strong justifications for a departure from the planning intention;
- (ii) regarding the justifications for the proposed GFA and building entitlement given by the applicant, Lot 379 with an area of about 118.9m<sup>2</sup> was a New Grant Building Lot with building height restriction of two storeys, which was equivalent to a total floor area of 237.8m<sup>2</sup>. Lot 380 RP was an agricultural lot of about 15,291.7m<sup>2</sup> and the squatter structures were only tolerated structures without building entitlement. In addition, District Lands Officer/Shan Tin (DLO/ST) had no record of the surveys conducted by the two Registered Land Surveying Consultants on Lot 380 RP as mentioned by the applicant;
- (iii) the Head of Geotechnical Engineering Office (H(GEO), Civil Engineering and Development Department (CEDD) advised that the applicant had not yet submitted the site formation plans to H(GEO) for approval. H(GEO) also advised that the GEO Circular No.3 was mainly for describing safety ground and should not be used for assessing the building right entitlement;
- (iv) the Chief Architect/Central Management Division 2, Architectural Services Department (ArchSD) considered that the proposed works appeared extensive and would affect the natural landscape enjoyed by the public along the hiking trail and residents nearby. A design more respectful to the existing landscape character of the site should be considered and tree felling should be minimized as far as possible;
- (v) the Chief Town Planner/Urban Design and Landscape, PlanD objected to the application as the applicant failed to provide strong justification for development of a single house of such scale on a “GB” site. The extensive retaining walls and site formation works with modification to

the gradient of a large piece of slope within “GB” zone would result in significant disturbance to the slope profile and existing vegetation. The applicant should explore alternatives which required less extensive site formation works;

- (vi) the proposed road widening works of Tung Lo Wan Hill Road would encroach upon government land and require further slope cutting and site formation works affecting the existing trees. The applicant failed to demonstrate the engineering feasibility of the proposed road widening works and it was also uncertain whether the concerned land/slopes could be used for the proposed widening and any gazette procedure was required; and
- (vii) there had been no material change in planning circumstances for the Site and its immediate environs since the rejection of the s.16 application that warranted a departure from the RNTPC’s decision.

30. The Chairman then invited the applicant’s representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr Joseph Chan made the following main points:

*Traffic impact*

- (a) in the previously approved application No. A/ST/673 (the approved scheme) for a single residential development at the Site without the road widening portion, the Transport Department (TD) indicated their no in-principle objection as there was insignificant traffic impacts on the adjacent roads for a single house development;
- (b) for the current application, TD did not support the planning application at the s.16 stage on the ground that no sufficient information was provided to demonstrate the feasibility of the application. At the s.17 stage, the applicant had indicated that the two additional parking spaces which were for visitor and disabled person could be deleted. TD then had no further comment on the review application from the traffic engineering viewpoint;

*Site Formation Area*

- (c) Dangerous Hillside (DH) orders were issued in respect of the slopes within the Site since 2001. The slope works had been carried out to address the four DH orders issued in 2010 in accordance with the GEO Technical Guidance Note No. 15 (TGN 15) 'Guidelines for Classification of Consequence-to-Life Category (CTL) for Slope Features'. Those slope works were carried out to meet the standard under CTL category 3 which only required minimal works for area falling within a remote area. To implement the proposed residential development under the approved scheme, more extensive slope stabilization/formation works would be required to meet the higher geotechnical standard under CTL category 1. The proposed site formation works in the current application adopted the higher geotechnical standard for the approved development scheme;
- (d) an enquiry submission of the site stabilization/formation works in respect of the approved scheme was submitted to the Buildings Authority for consideration. The proposed site formation works in that enquiry submission involved an area of 11,012m<sup>2</sup> which, however, did not mean that the whole area would be leveled. Green landscaping would be provided in the formed slope area. The site formation area under the current application was reduced to 10,314m<sup>2</sup>, which was smaller than that in the site formation scheme in the enquiry submission for the approved scheme;

*Building Entitlement*

- (e) the proposed GFA of 518m<sup>2</sup> under the approved scheme was derived from the building entitlements of the two lots (Lots 379 and 380RP in D.D 186) in the Site. For Lot 379, in the approved application, its building entitlement of 158m<sup>2</sup> GFA was based on 2/3 site coverage restriction at the lot according to Gazette Notice No. 364 published in 1934. Noting that the site coverage restriction was waived in accordance with Land Instruction No. 12, the applicant rectified the building entitlement of Lot 379 from 158m<sup>2</sup> in the approved scheme to 238m<sup>2</sup> in the current application. The 'no site coverage restriction for Lot 379' assumption had already been agreed by LandsD as

recorded in the minutes of the RNTPC meeting on 19.2.2016 in considering the approved scheme;

- (f) for Lot 380RP, the proposed 360m<sup>2</sup> GFA in the approved scheme was only the domestic GFA of the nine structures on the lot. The applicant considered that the GFA entitlement for Lot 380RP should also include the non-domestic GFA of the nine structures. The registration records of the nine structures in LandsD had already given recognition of the status of those structures. There was a Court case (Supreme Court Case No. MP796) in 1980s filed by the previous land owner of the Site against the occupants of the concerned structures. The Court had made a judgment that the ex-land owner should compensate the occupants for structure clearance. For the reference of compensation, the ex-land owner authorized two registered land surveyors to conduct surveys for area of the structures on Lot 380RP in addition to the Squatter Structure Survey conducted by the LandsD's Chainmen in 1984. The maximum GFA of the structures from all those surveys were accepted by the Court in calculation of the compensation. As the domestic and non-domestic GFAs of the structures were included for compensation in that Court case, the building entitlement for Lot 380RP should also include both domestic and non-domestic GFAs;

*Planning Gain for Proposed Bonus GFA*

- (g) bonus GFA of 833.89m<sup>2</sup> was included in the current scheme in return for the provision of three facilities in the proposed development scheme which were considered to be planning gain;
- (h) in the approved scheme, the existing one-lane carriageway road was proposed to be upgraded from 3.5m to 4.5m wide carriageway for two-way traffic. Feasibility study for the road works was not required at that time. In the current development scheme, the road was proposed to be further upgraded to 7.3m wide two-lane carriageway for two-way traffic with a 2m barrier-free pedestrian footpath to provide a safer and more comfortable access. The drainage system would also be upgraded in the proposed road works to resolve the flooding issue. The proposed road would be constructed, managed and

maintained by the applicant at his own cost, and would be opened for public use as well as for the access to the Sha Tin North Service Reservoir. The Water Supplies Department had no objection to the proposed road upgrading works. Similar to the approved scheme, the proposed road works should be subject to detailed engineering feasibility study to be conducted in the next stage;

- (i) a public footpath/hiking trail was proposed between the applicant's proposed widened road and To Fung Shan Road via the Site. As there was vehicular and pedestrian traffic conflict at To Fung Shan Road, the proposed footpath/trail could provide a safer alternative access for hikers to the MacLehose Trail and developments in To Fung Shan. It could improve the connectivity without the need of land resumption;
- (j) the proposed development would provide an instant greening effect for the subject "GB" zone. To address PlanD's concern on the site formation area, the current application had improved the landscape proposal and provided visual remedy. There would be an increase in the provision of new trees from 117 to 200, as well as the compensation ratios from 1:4.18 to 1:4.34 in terms of quantity, and from 1:2.15 to 1:2.20 in terms of the Diameter at Breast Height; and
- (k) in sum, the current application was to rectify the calculations of the GFA in the previously approved application at the Site. The proposed GFA of 1,836m<sup>2</sup> was the sum of the building entitlement of 1002.11m<sup>2</sup> and the bonus GFA of 833.89m<sup>2</sup> claimed for the planning gain of the proposed development. If the Board considered that the proposed facilities/works for claiming the bonus GFA were not acceptable, the applicant was ready to exclude the bonus GFA and accept an approval condition for a lower GFA. The scale of the proposed road widening would also be reverted to that proposed in the approved scheme.

31. As the presentation from PlanD's representative and the applicant's representatives had been completed, the Chairman invited questions from Members.

32. The Chairman requested Mr C.K. Soh, DPO/STN, to clarify whether DLO/ST and the RNTPC had indicated any recognition of the building right entitlement of the nine structures on Lot 380RP in approving application No. A/TP/673. In response, Mr C.K. Soh said that according to the RNTPC minutes for the said application, DLO/ST had stated that LandsD would not ascertain whether the 359.67m<sup>2</sup> of domestic structures was building entitlement. The application No. A/ST/673 was approved on the considerations, among others, that the proposed development intensity was acceptable and compatible with the surrounding environment, and the proposed development would make use of an existing platform and would not involve extensive clearance of vegetation. The approval of that application should not be interpreted as any recognition of the building entitlement of the structures on Lot 380RP as claimed by the applicant.

33. In response to a Member's enquiry, Mr Ken Y.K. Wong, Assistant Director of Environmental Protection, confirmed that environment impact assessment (EIA) for the proposed development at the Site was not required under the EIA Ordinance.

34. Some Members raised the following questions:

- (a) apart from the Sha Tin North Service Reservoir and the Site, what other developments/facilities would be served by the road proposed to be upgraded by the applicant;
- (b) how a facility provided by an applicant would constitute a planning gain and whether the provision of a hiking trail in the current application was regarded as a planning gain;
- (c) how the decision of the Court case referred to in the presentation of the applicant's representative was relevant to the subject application;
- (d) whether the GFA of the single house under the application was 1,836 m<sup>2</sup> or a lower GFA after excluding the proposed bonus GFA; and
- (e) noting that there was a water feature in the proposed development which appeared to connect with a stream, whether ecological impact assessment for the Site had been conducted, and whether the impact of the proposed development on the nearby streams had been assessed.

35. Ms Bernadette H.H. Linn, Director of Lands, asked the applicant's representative to confirm whether the Court case in 1980s was related to the dispute between the ex-land owner of the Site and the occupants of the squatters regarding the compensation payable by the former to the latter for clearing the structures on the Site, instead of a dispute over land title.

36. In response to Members' questions above, Mr Joseph Chan made the following main points:

- (a) the proposed upgraded road would only serve the Sha Tin North Service Reservoir and the proposed development at the Site. The proposed hiking trail within the Site was intended to allow segregation of pedestrian traffic and road traffic. The proposed upgrading works at the lower section of the access road to the Site could also address the flooding problem in the area;
- (b) the Court case in 1980s involved nine structures on Lot 380RP, which had been in existence for unknown reasons and the occupants were considered to be eligible for compensation when those structures were cleared. The Court case was not about land title under the lease of the lot which was for agricultural purpose. In the Court case, three parties had provided the survey records of the areas of the concerned structures including one from LandsD's Chainmen. The domestic and non-domestic GFAs ruled by the Court were used as the basis for formulating the compensation package to the squatters' occupants;
- (c) whether the domestic and non-domestic GFAs of the structures ruled in the Court case was for the purpose of compensation only or would be regarded as building entitlement could be subject to further discussion. However, it was necessary to point out that the domestic GFA of some 300m<sup>2</sup> as provided in the survey of LandsD's Chainmen was adopted as the basis for calculating the proposed GFA of the approved scheme at the Site. The applicant considered that the non-domestic portion as revealed in the Court case should be included in the calculation of the GFA at the Site under the current application;
- (d) the proposed GFA under the current application was 1,836m<sup>2</sup> included the bonus GFA. Should the Board consider that the claim for bonus GFA was not justified, the applicant was ready to accept a lower GFA of 1,002.11m<sup>2</sup> which could be imposed as an approval condition to the planning permission, if granted;

- (f) in the application No. A/ST/673 approved in 1998, an environmental assessment had been conducted for the proposed development at the Site but the requirement for ecological assessment had not been raised by the concerned departments. The stream within the Site had dried up and the water feature in the proposed development was to revitalize that stream. The Environmental Protection Department did not request for the assessment of the streams within and near the Site.

37. In response to Members' questions above, Mr C.K. Soh, DPO/STN, made the following main points:

- (a) the access road proposed to be upgraded by the applicant currently served the Sha Tin North Service Reservoir and the Site only; and
- (b) a facility would be considered as a planning gain if it was provided in the interest of the general public rather than for a private purpose; and the public had a genuine need of such facility that should be satisfied at the moment of considering the application. It was noted that the Maclehose Trail, where the proposed hiking trail would lead to, could be reached by To Fung Shan Road.

38. Two Members raised the following further questions:

- (a) noting that the proposed GFA would be substantially lower after excluding the bonus GFA, as proposed by the applicant's representative at the meeting, whether it was appropriate to assess the subject application with such a lower GFA at the current review stage; and
- (b) whether the substantive site formation works of the proposed single house as indicated in the current application was necessary.

39. In response to Members' questions above, Mr C.K. Soh, DPO/STN made the following main points:

- (a) the form and design of the house, the layout of the whole development and the supportive works under the current application were formulated based on the proposed GFA of 1,836m<sup>2</sup>, and could be very different if the GFA was substantially reduced to 1,002.11m<sup>2</sup>. As it might constitute a material change

to the original proposal, the applicant should submit a fresh application of the revised proposal for departments' assessment and Board's consideration; and

- (b) as advised by CEDD, there would be different approaches for slope stabilization/site formation works. In the current application, ArchSD had already commented that the proposed site formation works appeared to be extensive, and a design more respectful to the existing landscape character of the Site should be considered and tree felling should be minimized as far as possible. As the applicant had proposed only one site formation option, it could not ascertain that the proposed scale for slope stabilization/site formation works was the most appropriate approach.

40. Mr Danny Lui, applicant's representative, said that three options for carrying out the site formation works at the Site had been considered, namely the use of soil nails, slope cutting method and slope filling method. The use of soil nails was not feasible as it left limited scope for landscape treatment and the land owner would have no maintenance/repair right for the soil nails outside the site boundary. The slope cutting method would require a more extensive area to attain the safe slope angle. The use of slope filling method under the current application was considered the most appropriate after striking a balance among various factors.

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

#### Deliberation

42. Dr Lawrence W.C. Poon said that his family member was living in Sha Tin but the flat had no direct view to the Site. The meeting agreed that the interest of Dr Lawrence W.C. Poon was indirect and he could stay in the meeting.

43. A Member said that the presentation of the applicant's representative contained very technical information and asked the Secretary whether their presentation materials had been submitted before the meeting. In response, the Secretary said that all the materials submitted by

the applicant in support of the application had been included in the Paper, and the new materials presented by the applicant's representative at the meeting was not submitted in advance.

44. Some Members expressed their reservations on the review application and made the following main points:

- (a) according to records, there was turtle species of ecological importance in a stream around Tung Lo Wan Hill Road. The Site was part of a large "GB" zone and no tree survey/assessment was submitted for the extensive site formation works in the review application. There was insufficient information to ascertain the ecological impact of the proposed development at the Site on the surroundings;
- (b) in support of the review application, the applicant had put much emphasis on the building entitlement of the Site without responding to the rejection reasons of the application at the s.16 stage, in particular, that the proposed development would involve extensive site formation works and clearance of existing natural vegetation. It was considered more appropriate to adopt a stringent approach in considering application for developments in the "GB" zone;
- (c) the Board should consider the application as submitted by the applicant taking into account the assessment made and assessed in the Paper. As the impact of the scale-down development as proposed by the applicant's representative at the meeting had not been assessed, it was not appropriate to consider the application on that basis. There was also doubt on the building entitlement for Lot 380RP as claimed by the applicant;
- (d) given that the proposed upgraded road would mainly serve the Site and there was alternative access to MacLehose Trail, the proposed road upgrading works and hiking trail were not considered as planning gains which could justify a claim of bonus GFA; and
- (e) the applicant's argument for adopting a higher development intensity for the Site was not convincing. DPO/STN had already clarified the planning consideration for approving that application.

45. Upon the Chairman's invitation, Ms Bernadette H.H. Linn said that since 1980s, the Government had implemented a squatter control policy which clearly stated that squatters recorded in the territory-wide survey conducted in 1982 were unauthorized structures with no legal title and would only be tolerated until they were phased out by natural wastage or cleared by the Government for reasons of development, safety or environmental improvement. Such messages had been conveyed publicly over the years. The applicant had apparently quoted certain sentences in the public documents out of context to support his view that those squatter structures should have legal title.

46. The meeting noted that there was no change in the planning circumstances since the previous consideration of the subject application by the RNTPC. There were also no strong justifications in the review application to support the proposed development.

47. After further deliberation, the Board decided to reject the application on review for the following reasons:

- “ (a) the proposed development is not in line with the planning intention of “Green Belt” (“GB”) zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development in “GB” zone and no strong planning justifications have been provided in the submission for a departure from this planning intention;
- (b) the proposed development is not in line with the TPB PG-No.10 for Application for Development within Green Belt Zone under section 16 of the Town Planning Ordinance in that there are no strong justifications for the proposed development and its site formation works which would involve extensive clearance of existing natural vegetation and adversely affect the existing natural landscape;
- (c) the applicant fails to demonstrate the feasibility of the substantial road widening works; and
- (d) the approval of the application will set an undesirable precedent for

other similar development proposals in the “GB” zone. The cumulative impact of approving such applications would result in adverse impacts on the natural environment and landscape character of the area.”

[Mr Thomas O.S. Ho left the meeting at this point. Mr Martin W.C. Kwan returned to join the meeting at this point.]

**Agenda Item 5**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/ DPA/NE-TT/26

Proposed House (New Territories Exempted House – Small House) in “Unspecified Use” Area,  
Government land in D.D. 289, Ko Tong, Tai Po, New Territories

(TPB Paper No. 10151)

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**Agenda Item 6**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/ DPA/NE-TT/27

Proposed House (New Territories Exempted House – Small House) in “Unspecified Use” Area,  
Government land in D.D. 289, Ko Tong, Tai Po, New Territories

(TPB Paper No. 10152)

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[The items were conducted in Cantonese.]

48. The applicants had requested the Board to consider their review applications under Agenda Items 5 and 6 together. As the application sites were located adjoining each other within the same “Unspecified Use” area, Members agreed that the two applications could be considered together.

Presentation and Question Sessions

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

- |                         |   |  |
|-------------------------|---|--|
| Mr C.K. Soh             | - | District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD |
| Mr Ho Wai Hong Stanley  | - | Applicant of Application No. A/DPA/NE-TT/26                          |
| Mr Ho Fay Hong Benjamin | - | Applicant of Application No. A/DPA/NE-TT/27                          |
| Mr Ho Yu Sang           | ] | Applicant's representatives  |
| Mr John Corrigall       | ] |  |

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

51. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, made the following main points as detailed in the Paper:

- (a) on 9.3.2015, the applicants sought planning permission to build a house (New Territories Exempted House (NTEH) – Small House) at the two application sites (the Sites). Both Sites fell within an area designated as “Unspecified Use” on the approved Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Development Permission Area (DPA) Plan No. DPA/NE-TT/2 (the approved DPA Plan).
- (b) on 8.5.2015, the Rural and New Town Planning Committee (RNTPC) of the Board decided to reject the application and the reasons were:
  - (i) the application did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding area; and

- (ii) the approval of the application would set an undesirable precedent for other similar applications in the area, the cumulative impacts of which would have adverse impacts on the natural environment and landscape character of the area;
- (c) on 11.6.2015 and 12.6.2015, the applicants applied for review of the RNTPC's decisions with the following main justifications:
- (i) measures would be implemented to minimize the impacts on the surrounding environment including the use of bricks for construction of the proposed Small Houses; delivery of construction materials by manual labour; the use of portable motor hoe instead of excavator; no interference with trees outside the Sites; the limitation of the area of the construction site of the proposed Small Houses; the adoption of good site practice; the use of protective fencings around the trees; and the employment of a professional person to supervise the construction works;
  - (ii) the applicants would accept any conditions to the planning approval, and undertake to submit a tree preservation and landscape proposal prior to the construction of the Small Houses;
  - (iii) the Sites were located in the open space of a village school without vegetation and accessible by a footpath 30 to 40 years ago and the existing landscape environment was just a result of abandonment. Besides, the large dead trees near the entrance to the Sites were not worthy of protection;
  - (iv) there were no sites suitable for Small House development in the vicinity and hence the approval of the two applications would not attract other similar applications; and
  - (v) the two applications were supported by the owners and tenants in Ko Tong Village;
- (d) previous application - there was no previous application at the Sites.

- (e) similar applications – there were 20 similar applications within the same “Unspecified Use” area on the approved DPA Plan. A total of 13 applications were approved with conditions by the RNTPC from November 2014 to April 2015 mainly on the considerations that the application could generally meet the Interim Criteria; there was insufficient land within the concerned “V” zone to meet the Small House demand; the proposed Small House was not incompatible with the surrounding environment; significant landscape impact was not anticipated or such concern could be addressed by approval condition and the concerned government departments had no objection to or no adverse comment on the application. The other seven applications were rejected by the RNTPC or the Board on review from May 2015 to May 2016 mainly for the reasons similar to those of the subject applications, and for the latest five applications, they were rejected for the additional reason that the cumulative effect would result in adverse impacts on the infrastructure capacities and/or pre-determine the land use zonings of the OZP under preparation;
- (f) since the gazettal of the draft DPA Plan on 8.11.2013, a total of 94 s.16 planning applications for proposed house (NTEH – Small House) within the “Unspecified Use” area had been received (as at 7.7.2016). Among those, 75 planning applications had been considered by the RNTPC or withdrawn by the applicants. There were 19 planning applications yet to be considered;
- (g) there were a total of 124 outstanding Small House grant applications in the Area, of which 123 fell within the “Unspecified Use” area and hence required planning permission. Discounting the 41 outstanding Small House grant applications for which s.16 planning applications had been considered/would be considered by the Board, there were 82 outstanding Small House grant applications for which planning applications were yet to be received;
- (h) public comments - 10 public comments for each of the two review applications were received. Among them, six were submitted by green/concern groups and one by an individual objecting to the application mainly on the grounds similar to the rejection reasons of the RNTPC at the s.16 stage and in addition, that there had been vegetation clearance in the Sites and its surrounding area;

no relevant technical assessments had been submitted; the proposed Small House developments might be built for profit; and no development should be approved prior to the detailed planning of the OZP. The remaining three comments were submitted by local stakeholders supporting the applications mainly on the grounds that there was reasonable expectation that the applicants would actually live in the proposed Small Houses; the waiting time for approval of Small House grant application was so long; there was insufficient land for Small House developments and the Sites without any mature trees were the only available sites; and the proposed Small House developments with the proposed measures would not cause adverse impacts on the surrounding environment, etc;

- (i) PlanD's views – PlanD did not support the review applications based on the planning considerations and assessments set out in paragraph 7 of the Papers which were summarized below:
  - (i) the Sites were on a piece of government land located in the eastern part of the flat top of the vegetated knoll, densely covered with native trees and shrubs. They could only be reached via a 13m long track surrounded by dense vegetation including trees;
  - (ii) the Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the applications from the nature conservation point of view as the proposed Small Houses might involve considerable tree felling and vegetation clearance, and further tree felling might be required for the transportation of construction materials and machinery to the Sites. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD also had reservation on the application from the landscape planning perspective as the Sites and their surroundings were well vegetated but no tree assessment and tree preservation proposal of the surrounding vegetation were provided to demonstrate that there would be no adverse landscape impact arising from the proposed Small House developments and the associated construction access;

- (iii) although the available land within the “V” zone of Ko Tong could not fully meet the future Small House demand, and the proposed Small House footprints fell within the ‘Village Environ’ (‘VE’) of Ko Tong, the applications did not comply with the Interim Criteria in that the proposed developments would cause adverse landscape impact on the surrounding area;
- (iv) there had been no major change in planning circumstances for the Site and its immediate environs since the rejection of the applications by the RNTPC; and
- (v) 19 planning applications were yet to be considered by the RNTPC and new planning applications for 82 Small House grant cases being processed by DLO/TP were anticipated. The DPA Plan was an interim plan which provided stopgap measures to facilitate development control within the Area. The draft OZP to replace the DPA plan would be considered by the Board at the same meeting and if agreed, would be published under the Town Planning Ordinance in due course. In view of the large number of planning applications for Small House developments received/anticipated, the cumulative effect of approving similar applications would pre-determine the land use zonings of the OZP.

52. The Chairman then invited the applicants and their representatives to elaborate on the review application. With the aid of the visualizer, Mr Ho Wai Hong Stanley made the following main points:

- (a) he had already proposed an alternative route for the transportation of construction machinery and materials to the Sites in order to address the departments’ concern that the existing footpath to the Sites could not cater for the development. PlanD had not presented such information to the Board, which gave the impression that they would construct a new road adversely affecting the natural environment. The alternative route was the same as that proposed under the approved Small House applications in the area;

- (b) he was an indigenous villager seeking planning permission to build a Small House for his own occupation. He had applied for a Small House grant application for more than 12 years and was requested to find alternative sites due to environmental concerns. The Sites was considered to have no environmental concern and if rejected, no alternative sites would be available;
- (c) whilst other Small House applications in the area were approved by the Board, their applications were rejected on the ground of landscape concern. They took proactive action and reported to the Police on the incidents of felling of Blinding Tree (土沉香樹) by outsiders occurred in 2006, which showed that the villagers cherished the environment and trees in the area. With similar landscaping setting, he wondered why other similar applications in the vicinity were approved. Their Sites were very close (about some 10m away) to the site of the approved application No. A/DPA/NE-TT/23 and the time gap of the RNTPC's consideration of the approved application and their applications was only one month. PlanD should explain its change of stance in processing the current applications; and
- (d) they submitted their applications when the area was not covered by any OZP. While they were discussing with relevant experts on how to minimize the environmental impact, an OZP for the Area came into place and the Sites were excluded from the proposed "Village Type Development" ("V") zone. With the understanding that the two subject applications outside the "V" zone would probably be rejected, they did not proceed with the environmental and tree assessments and therefore no such reports had been submitted in support of the applications. The large trees at the Sites referred to by PlanD were dead. They were not local mature trees, and would probably fall down during the typhoon. He requested the Board to consider whether the Small House need of local villagers should be sacrificed for protecting two dead trees.

[Mr Andy S.H. Lam left the meeting at this point.]

53. Mr Ho Yu Sang made the following main points:

- (a) he was the Indigenous Inhabitant Representative (IIR) of Ko Tong Village. The two applicants were indigenous villagers and the Small Houses under their

applications were for their own occupation to improve their living environment. They had submitted Small House grant applications since 2005 which were rejected and were asked to look for different sites several times. They spent a lot of money and time in the process but still could not obtain the necessary planning permissions. It was not reasonable to reject the applications due to the adverse public comments received;

- (b) the Sites were considered not suitable for Small House development by the RNTPC for the reason that they would cause adverse landscape impact on the surrounding areas and there was lack of access. He wondered why other similar applications in the vicinity also surrounded by trees and vegetation were approved. The Board had adopted double-standard in considering the applications which was unfair to the subject applicants. Although there were trees in the surrounding, the two Sites were suitable for Small House developments since no environmental impact was expected due to absence of natural steams and rare species. In a rural context, no area was without vegetation and trees; and
- (c) back in the 1950s and 1960s, all villagers used manual labour to deliver construction materials since there was no road access. Rejection of the two applications on the ground of no road access was unreasonable and not fair to the applicants who were eligible for the right of building Small Houses. The local villagers were the keepers of the local environment, they had paid much effort to protect the area and would not damage their own living environment.

54. With the aid of the visualize, Mr Ho Fay Hong Benjamin made the following main points:

- (a) he was an indigenous villager born and had been living in the village for some 30 years. As shown in an aerial photo of the area prepared by PlanD, there were no sites in the area without any trees and vegetation. Compared with the mega projects such as the Three-Runway System of the airport or the Hong Kong-Zhuhai-Macau Bridge, the two Small Houses were minimal in scale and the environmental impact would be insignificant; and

- (b) the green groups only paid lip service to environmental conservation while the local villagers took action to protect the environment. They had lived in the area for decades and had not done any damage to the environment. They were not eligible for public housing and had genuine housing needs. He wondered whether the Board had considered the feeling of the local villagers when they encountered so many obstacles in applying for Small Houses.

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

55. Mr John Corrigan made the following main points:

- (a) he was a development consultant and a long time friend of the parents of the applicants. According to paragraph 4.12 of the Paper, a number of applications in the area were rejected on the grounds that the proposed developments would cause adverse landscape, environmental, and drainage impacts on the surrounding area. For the current applications, there were no adverse comment in respect of environmental and drainage aspects, and the major reason for rejecting them was related to adverse landscape impact. It was obvious that there was a shift of the Board's perception on the landscaping issue within a short time since many similar cases with landscape concerns in the vicinity were approved previously. It was not fair to the two applicants;
- (b) the Sites were designated as 'Unspecified Use' on the DPA Plan, and they should be designated as "Conservation Area" or "Green Belt" if they were considered to be of high conservation value. Members were requested to consider whether the landscape issue should be so overwhelming and whether a consistent approach should be adopted in considering the applications.

56. As the presentation from PlanD's representative, the applicants and their representatives had been completed, the Chairman invited questions from Members.

57. Some Members raised the following questions:

- (a) in considering the review applications, whether government departments had taken into account the applicants' proposals for not involving road widening works and using manual labour to transport construction materials;
- (b) given the sites of some of the approved Small House applications, especially applications No. A/DPA/NE-TT/20 to 25, were in very close proximity to the subject Sites, what the major differences were in those approved applications and the current applications;
- (c) what the main considerations for Small House applications stated in the Interim Criteria were;
- (d) the applicants' representatives stated that the Sites fell within a "GB" zone. Which plan they were referring to; and
- (e) where the alternative access proposed by the applicants was which would not involve vegetation clearance.

58. In response to Members' questions above, Mr C.K. Soh, DPO/STN, made the following main points:

- (a) with reference to Plans R-2 to R-4 of the Paper, the approved Small House applications were located to the west of the Sites on the same flat top of the knoll previously used as the playground of a defunct village school (ex-playground). The sites of the approved applications had limited vegetation/tree cover while to the east of the sites where the current application sites were located was a belt of dense vegetation with shrubs and trees connecting to the woodland in a wider area. The area covered by the DPA plan was located in the Country Park enclave where the priority was to protect the existing landscape and areas of conservation value. Special attention had been given to preserve the existing trees and vegetation;
- (b) the Small House need of indigenous villagers was well noted. However, in assessing Small house applications, more favourable consideration would be given to those without involving extensive vegetation clearance and those that were compatible with the surrounding environment. For the approved

applications on the ex-playground, no clearance of vegetation with conservation value was involved and the applicants had submitted information and committed to manually deliver the construction materials to minimise the adverse impact. After striking a balance among the Small House need of the villagers, conservation need and other relevant factors, RNTPC approved those applications. Further extending the area for Small House development to the current Sites would cut into the existing woodland which was of similar landscape condition of the sites in the rejected applications located to the west of the “V” zone. The current applications were rejected by RNTPC on the grounds that they would have adverse landscape impact on the area and would set undesirable precedents;

- (c) in gist, the Interim Criteria provided a basis for considering the Small House applications. Favourable consideration could be given if more than 50% of the footprints of the proposed Small Houses fell within the V” zone or village ‘environs’; there was a general shortage of available land in the “V” zone to meet the Small House demand derived from the outstanding Small House applications and the 10-year forecast; there would be no adverse impact on the surroundings; and other relevant considerations like proximity to existing village cluster;
- (d) the plan shown by the applicants on which the Sites falling within the “GB” zone was the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Outline Zoning Plan (OZP) No. S/NE-TT/B submitted to the Board for preliminary consideration in February 2016, for which the Board had agreed to be suitable for use in the consultation with the relevant District Council and Rural Committee; and
- (e) with reference to the applicant’s submission at Plan No. 1 of Appendix Ic of Annex A of the Paper shown on the visualizer, the applicant proposed to use the paved staircase or the track to its west as an alternative access up to the flat top of the knoll and both would lead to the Sites via the track within a belt of dense vegetation cover extending from the western part of the flat top of the vegetated knoll.

59. At the Chairman's invitation, Mr Ho Fay Hong Benjamin and Mr Ho Yu Sang made the following main points :

- (a) with reference to a photo shown in the computer, the sites under the approved applications No. A/DPA/NE-TT/19 to 23 had some trees felled. It indicated 'destroy first, build later' activities had taken place at the sites where applications were approved while the current applications were rejected as there was woodland along the track leading to the Sites. The RNTPC's decision to reject the application was unfair to the law abiding applicants; and
- (b) the track leading to the Sites was very wide without any need to go through the woodland as mentioned by PlanD. Members were requested to visit the Sites to verify the situation.

60. In response to the Chairman's enquiry on the tree felling as indicated in the applicant's photo, Mr C.K. Soh said that there might be some trees near the abandoned village school years before, but with reference to the aerial photo taken on 8.11.2013 (i.e. on the gazette date of the draft DPA Plan), the ex-playground area within which the sites of the approved applications were located did not have dense vegetation/tree cover. In assessing planning applications for development in the country park enclave, whether substantial vegetation clearance would be involved; the conservation value of the vegetation cover; and the suitability of the sites were the main considerations. No favourable consideration would be given for applications involving 'destroy first and build later' activities. Prior to the publication of the DPA plan for the area, an 'unauthorized' track was formed to the west of the village. Such action would not be tolerated after the gazettal of the DPA plan for the area.

61. Upon the Chairman's invitation to supplement, Mr Ho Wai Hong Stanley said that the Sites were not located within the woodland as stated by PlanD. They were part of the ex-playground with grasses overgrown. The illegal road works and vegetation clearance to the west of the existing village was not related to the current applications. While PlanD had pointed out that approval of the applications would pre-determine the land use zonings of the OZP under preparation, it should be noted that they had commenced their Small House application process well before the publication of the DPA plan for the area. As for the trees claimed to be present at

the Sites, he doubted whether government departments had carried out site investigation and could point out their specific location and species.

62. As Members had no further questions to raise, the Chairman informed the applicants and their representatives that the hearing procedure for the review applications had been completed. The Board would further deliberate on the review applications in their absence and inform the applicants of the Board's decision in due course. The Chairman thanked the applicants and their representatives and PlanD's representative for attending the meeting. They left the meeting at this point.

### Deliberation

63. The Chairman said that in considering the review applications, the assessment should be made on the basis that the Sites fell within the 'Unspecified Use' area on the approved DPA plan rather than the proposed "GB" zone on the preliminary draft OZP to be considered under the next Agenda Item. The meeting agreed.

64. In response to a Member's enquiry on whether the Sites formed part of the ex-playground of the village school, Mr K.K. Ling, Director of Planning, said that with reference to Plan R-2 of the Paper, the Site appeared to be part of the flat top of a knoll which might once be used as a playground of the abandoned village school.

65. Some Members considered that the review applications could be approved and made the following main points:

- (a) the application was rejected at the s.16 stage mainly on the ground that it had adverse impacts on the natural environment and the landscape character of the area. The Sites was indeed part of the school ex-playground with vegetation/tree overgrown. Based on the photos of the Sites and its surrounding area as shown on Plan R-4a of the Paper, there were not many large trees at the Sites, which could not be regarded as forming part of the woodland. Its impact on the natural and landscape environment should not be significant;

- (b) in considering the rezoning amendment for housing development at Yin Ping Road, one of the Board's considerations was that the site had already disturbed and the vegetation/tree cover were just subsequent overgrown. The situation was similar to the current applications and the Board might need to adopt the same approach in considering the current applications;
- (c) the Sites were located within the village 'environs' and the land available in the "V" zone was not sufficient to fully meet the Small House demand. In view of the Small House need of the local villagers and the site conditions, the Sites were considered appropriate for Small House developments; and
- (d) based on the site topography and the vegetation cover as shown in the aerial photo taken in 2013, the condition of the Sites and their impacts on the landscape character of the area should be similar to those of the sites approved for Small House developments locating on the same ex-playground. As the vegetation cover at the Sites was probably overgrown and there should not be any adverse impact on the natural environment, the proposed development could meet the Interim Criteria. Moreover, the applicants had applied for Small House development for more than 10 years, sympathetic consideration could be given for the applications.

66. Ms Bernadette H.H. Linn, Director of Lands, said that based on a layman's perception of the aerial photo in Plan R-3 of the Papers which was taken in January 2015, i.e. close to the time when RNTPC considered the Small House applications on the ex-playground, one could possibly argue that the vegetation cover of the sites of the approved applications and the Sites appeared to be similar and in turn question the consistency of the RNTPC's decision.

67. Some Members considered that the review applications should be rejected and made the following main points:

- (a) even though the Sites were once disturbed by man-made activities, given they were currently well covered with vegetation and surrounded by woodland, it was appropriate to refrain Small House developments from extending further beyond the site of the approved application No. A/DPA/NE-TT/23 to the current Sites;

- (b) based on Photo 4 on Plan R-4b of the Paper and the aerial photo on Plan R-3, it appeared that there was a dense woodland to east of the site of application No. A/DPA/NE-TT/23 where the current application sites were located. Allowing Small House development to encroach into the woodland would have adverse landscape impact. In addition, the applicants had not submitted any tree survey/assessment to ascertain that the proposed Small Houses would not affect existing trees in the area;
- (c) in reviewing the RNTPC's decision, the Board should consider the materials presented to RNTPC at that time. With reference to the aerial photograph in Plan A-3 of the Paper prepared at the s.16 stage, it was clear that the area with the cluster of the approved planning applications was covered with grassland while the Sites and its surrounding area had dense vegetation/tree cover. Photo 3 on Plan A4 also showed that there was a distinct boundary of the grassland and the woodland on the ex-playground and the Sites were located inside the woodland area. As the Small House applications including the approved applications and the subject applications on the ex-playground were considered by the RNTPC within a short period, RNTPC members should have already made a conscious decision that Small House development should be confined to the grassland portion of the ex-playground; and
- (d) while the Board had accepted the zoning amendment in the Yin Ping Road case on the consideration that the concerned site was formed land with vegetation overgrown, there was also another case in Tai Po where the zoning amendment on previously formed site with subsequent vegetation overgrown was not acceptable by the Board. As such, whether a previously formed site could be used for housing development should be assessed on a case by case basis.

68. The Chairman reminded Members that in considering the s.17 review application, the focus should be placed on whether the applicants had provided information or strong justification to address the RNTPC's concerns which warranted the Board to depart from the RNTPC's decision. In addition, whether the subject Sites were suitable to be included in the "V" zone of the draft OZP should be considered in the context of the OZP preparation process. After further discussion, Members generally agreed that there was no change in the planning circumstances

since the previous consideration of the subject applications by the RNTPC, and agreed to maintain the RNTPC's decision to reject the applications.

69. After further deliberation, the Board decided to reject the applications on review and the reasons for each application were:

- “ (a) the application does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/ Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding area;
- (b) the approval of the application would set an undesirable precedent for other similar applications in the area, the cumulative impacts of which would have adverse impacts on the natural environment and landscape character of the area; and
- (c) the cumulative effect of approving similar applications would pre-determine the land use zonings of the Outline Zoning Plan under preparation.”

[Mr Lincoln L.H. Huang and Ms Christina M. Lee left the meeting at this point.]

### **Agenda Item 7**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/TP/595

Proposed 2 Houses (New Territories Exempted House - Small House) and Minor Relaxation of Building Height Restriction from 1 storey to 3 storeys and Plot Ratio from 0.64 to 1.536 in “Comprehensive Development Area (1)” Zone, Lots 636 S.C ss.1 and 636 S.C ss.2 in D.D. 11, Fung Yuen, Tai Po, New Territories

(TPB Paper No. 10150)

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[The meeting was conducted in Cantonese.]

### Declaration of Interests

70. Dr C.H. Hau declared an interest in the item as he was the advisor of Fung Yuen Butterfly Garden in the area. The meeting agreed that the interest of Dr C.H. Hau was indirect and he could stay in the meeting.

### Presentation and Question Sessions

71. The following representative from the Planning Department (PlanD) was invited to the meeting at this point:

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

72. The Chairman extended a welcome and explained the procedure of the hearing. He said that the applicant had indicated not to attend the hearing and then invited DPO/STN to brief Members on the background of the review application.

73. A replacement page (page 3) of the Paper was tabled at the meeting. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, made the following main points as detailed in the Paper:

- (a) on 24.11.2015, the applicants sought planning permission to build a New Territories Exempted House (NTEH) - Small House on each of the application sites (the Sites), which were zoned "Comprehensive Development Area (1)" ("CDA (1)") on the approved Tai Po Outline Zoning Plan No. S/TP/26, and for minor relaxation on building height restriction (BHR) from one storey to three storeys and plot ratio (PR) from 0.64 to 1.536 to permit the proposed Small House developments;
- (b) on 22.1.2016, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
  - (i) the proposed Small House developments did not comply with the Interim Criteria for consideration of application for New Territories Exempted House/Small House development in the New Territories in that there was

no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone; and

- (ii) land was still available within the “V” zone of Fung Yuen for Small House development. It was considered more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services;
- (c) on 24.2.2016, the applicants applied for review of the RNTPC’s decision with the following main justifications:
- (i) the Sites fell entirely within the ‘village environs’ (‘VE’) of Fung Yuen where approval should be given to Small House development proposed by the indigenous villagers;
  - (ii) while land was still available within the “V” zone, the applicants had no ownership of it;
  - (iii) the proposed Small House developments were adjacent to the existing village houses and could form an orderly development pattern. They were not incompatible with the surrounding areas and infrastructure facilities. The Sites were flat and accessible via a local track and no adverse traffic impacts would be anticipated;
  - (iv) there was no objection to the application from relevant government departments and local villagers; and
  - (v) there were ten similar applications in Fung Yuen approved by the RNTPC;
- (d) previous application – there was no previous application for Small House development at the Sites. Nevertheless, the concerned “CDA(1)” zone was the subject of five planning applications for comprehensive residential development and agricultural uses, which were approved with conditions by the RNTPC or the Director of Planning between 2000 and 2004. The latest planning application No. A/TP/333 was approved on 18.8.2004 and according

to the approved Master Layout Plan (MLP), the Sites were located at the western periphery of the comprehensive development annotated as ‘private lot owned by others, existing agricultural’ on the MLP and no specific use or development was proposed for the Sites;

- (e) similar applications - there were 15 similar applications within the same “CDA(1)” zone, 11 of them were approved by RNTPC between 2004 and 2015 on the grounds of complying with the Interim Criteria mainly in that there was a general shortage of land within the “V” zone for Small House development at the time of consideration or under special circumstances. The remaining four applications were rejected by the RNTPC or the Board on review in 2004 to 2014, mainly on the grounds similar to those of the subject application. Two of the rejected cases were located to the immediate east adjacent to the Sites;
- (f) public comments - two public comments were received objecting to the application mainly on the grounds of the development being not in line with the planning intention of “CDA(1)” zone and setting of undesirable precedent;
- (g) PlanD’s views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper which were summarized below:
  - (i) the Chief Town Planner/Urban Design and Landscape, PlanD had no objection to the application as no significant adverse landscape impact was anticipated. The Commissioner for Transport had reservation on the application as such development should be confined within “V” zone as far as possible but considered that the application involving the development of a Small House on each of the Sites only could be tolerated;
  - (ii) about 4.44 ha (or equivalent to about 177 Small House sites) of land were available within the three “V” zones of Fung Yuen village (comprising Fung Yuen Lo Tsuen and Mak Uk, Lau Hang and Kau Shi Wai, Tin Sam)

which could meet the future Small House demand of about 3.28 ha (or equivalent to about 131 Small House sites);

- (iii) as land was still available within the “V” zone of Fung Yuen for Small House development, it was considered more appropriate to concentrate the Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. As for the applicants’ claimed that they did not own or have alternative sites within “V” zone, they failed to demonstrate why land within “V” zone could not be made available for Small House development. Moreover, land ownership could change overtime; and
- (iv) as there had been no major change in planning circumstances of the Sites and the surrounding areas since the rejection of the application, there was no strong planning justification to warrant a departure from RNTPC’s rejection of the application.

74. As the presentation from DPO/STN was completed, the Chairman invited questions from Members.

75. As Members had no questions to raise, the Chairman said that the Board would deliberate on the review application in the absence of the government’s representative and would inform the applicant of the Board’s decision in due course. The Chairman thanked DPO/STN for attending the meeting. DPO/STN left the meeting at this point.

#### Deliberation

76. The meeting noted that there was no change in the planning circumstances since the previous consideration of the subject application by the RNTPC. Members agreed to maintain the RNTPC’s decision to reject the application.

77. After deliberation, the Board decided to reject the application on review for the following reasons:

- “ (a) the proposed Small House developments do not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House development in the New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone; and
- (b) land is still available within the “V” zone of Fung Yuen for Small House development. It is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. ”

**Agenda Item 8**

[Open Meeting ]

Draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Outline Zoning Plan No. S/NE-TT/B  
Further Consideration of a New Plan  
(TPB Paper No. 10143)

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[The item was conducted in Cantonese.]

78. The following representatives of the Planning Department (PlanD) were invited to the meeting at this point:

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

Ms Channy C. Yang - Senior Town Planner/Country Park Enclave 2, PlanD

79. The Chairman extended a welcome and invited DPO/STN to brief Members on the Paper.

80. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, made the following main points as detailed in the Paper:

## Background

- (a) on 26.2.2016, the Town Planning Board (the Board) gave preliminary consideration to the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Outline Zoning Plan (OZP) No. S/NE-TT/B and agreed that the draft OZP was suitable for submission to the Tai Po District Council (TPDC) and Sai Kung North Rural Committee (SKNRC) for consultation;

## Major Land Use Zonings of the Draft OZP No. S/NE-TT/B

### *“Coastal Protection Area” (“CPA”) (2.53ha)*

- (b) the “CPA zone mainly covered the coastal area along Ko Tong Hau, primarily consisting of natural coastline with mangroves, marsh, backshore vegetation and sandy shore. It was to reflect the ecological importance of the natural habitats and could also provide a buffer between the adjoining village area and the marine environment of Pak Sha O (the Area);

### *“Conservation Area” (“CA”) Zone (0.5 ha)*

- (c) the “CA” zone covered the mature woodland to the northeast of the Ko Tong Village;

### *“Green Belt” (“GB”) Zone (60.21 ha)*

- (d) the “GB” zone comprising mainly woodlands, shrublands, seasonally wet grassland, marsh as well as streams including the Tai Tan Ecologically Important Stream (EIS) and their riparian zones was to conserve the natural and landscape character of the Area and provide a buffer between the village type developments and the Country Parks;

### *“Other Specified Use” (“OU”) Zone (0.08ha)*

- (e) the “OU” zone covered the major existing public transport facility in the Area, namely Wong Shek Pier;

*“Government, Institution or Community” (“G/IC” )Zone (1.77 ha)*

- (f) the “G/IC” zone covered the major existing GIC facilities including the public toilet, two refuse collection points, the telephone exchange, Civil Aid Service Tai Tan Camp and The Jockey Club Wong Shek Water Sports Centre;

*“Village Type Development” (“V” ) Zone (5.40 ha)*

- (g) Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Villages were the four recognized villages in the Area. An incremental approach had been adopted for designation of “V” zones with an aim to confining Small House developments at suitable locations around the existing village clusters;

Local Consultation

- (h) the SKNRC and TPDC were consulted on 11.3.2016 and 11.5.2016 respectively and they both objected to the draft OZP No. S/NE-TT/B. A total of 15 submissions were received from the vice-chairman of SKNRC, Indigenous Inhabitant Representatives (IIRs) of the four villages and two indigenous villagers of Ko Tong Village. Their views and proposals were summarized below:

*Designation of “V” Zones*

- (i) the “V” zone was inadequate, and there was insufficient available land or private land therein to meet the Small House demand. The incremental approach for designation of “V” zones should not be applicable to the Area, given that it was provided with road access and basic public utilities. It was also misleading to mention cross-village Small House grant applications as a possible solution to address Small House demand as those applications on government land would not be considered by Lands Department (LandsD) and it would be difficult for villagers to purchase private land in other villages;
- (ii) the “V” zones were proposed to be expanded to cater for the outstanding/ approved Small House grant applications and cover more private lots in the villages to meet the 10-year Small House demand forecast. The

Vice-chairman of SKNRC generally proposed to designate the agricultural land for village development;

- (iii) the “V” zone expansions should not be limited by the village ‘environs’ (“VE”), existence of trees or constraints of difficult terrain as geotechnical feasibility could be assessed on individual Small House grant applications;
- (iv) specific proposals of “V” zone expansions were provided in the submissions with justifications and tree survey reports;

*Designation of “GB” and “AGR” Zones*

- (v) designation of “GB” zone was contradictory to the Government’s policy of rezoning “GB” sites for residential developments in other districts of the territory;
  - (vi) designation of private land as “GB” zone with development restriction was unfair to the landowners and could not truly protect the landscape character of agricultural land as they could fell the trees thereon;
  - (vii) the IIRs of Ko Tong and Ko Tong Ha Yeung Villages specifically proposed to designate the areas near the streams as “GB” zone and six other areas as “AGR” zones in/near their villages;
- (i) two submissions were received from Kadoorie Farm & Botanic Garden Corporation (KFBG) and The Hong Kong Bird Watching Society (HKBWS) respectively and their views and proposals were summarized below:

*Designation of “V” Zones*

- (i) the “V” zones in Tai Tan should not encroach onto the riparian zones of the EIS and the natural stream;
- (ii) the “V” zone should not be expanded to the north of the existing Uk Tau Village. The area was mainly covered with secondary woodland, and part of it was previously a marsh and subject to suspected land filling and site formation, and hence the “V” zone expansion would set an undesirable precedent for other forthcoming OZPs;

*Designating Woodland and Riparian Zones of the EIS and Natural Streams as “GB(1)” or “CA”*

- (iii) as most of the Area was covered with secondary woodland, which together with other important habitats such as the Fung Shui woodland to the west of Ko Tong Village, EIS and natural streams should be protected, it was proposed to designate the woodland as “CA”, and the 30m riparian zones of the EIS and natural streams as “GB(1)” or “CA”. HKBWS also submitted records of bird species in Tai Tan, Uk Tau and Ko Tong from 2005 to 2014 to substantiate the ecological value of the Area; and

*Incorporating the Area into the Country Parks*

- (iv) the Area should be incorporated into the Sai Kung East and West Country Parks to fully protect the ecological and landscape values of the Area and the surrounding Country Parks.

PlanD’s Responses

- (j) in consultation with the concerned departments, PlanD’s responses to the above comments/proposals were as follows:

*Designation of “V” Zones*

- (i) in drawing up the draft OZP, special attention had been given to protect the high conservation and landscape values of the Area. Environmentally sensitive areas and areas with high landscape value including woodlands, shrublands, seasonally wet grassland, marsh, streams, mangroves, backshore vegetation and sandy shore, had been zoned “GB”, “CA” or “CPA”;
- (ii) there was a need to designate “V” zones at suitable locations to meet the Small House demand of local villagers after delineating the areas that had to be conserved. The boundaries of the “V” zones had been drawn up around existing village clusters having regard to the ‘VE’, the number of outstanding/approved Small House applications, Small House demand forecast, local topography and site constraints. It covered the existing

village clusters and their adjoining land that were suitable for village type development. Areas of difficult terrain, dense vegetation, ecologically sensitive areas, stream courses and burial grounds had been avoided as far as possible;

- (iii) an incremental approach for designation of “V” zones had been adopted for designation of “V” zones for Small House development, which was also consistent with other OZPs for country park enclaves;
- (iv) the total outstanding Small House applications for the four recognised villages in the Area and the latest 10-year Small House demand forecasts were 124 and 435 respectively. About 5.40 ha of land was zoned “V”, in which about 1.97 ha of land was available, which was equivalent to about 79 Small House sites and meeting about 14% of the total Small House demand. When compared with the “V” zone of 3.04ha on the DPA Plan, there was an increase of 2.36ha;
- (v) while land zoned “V” was insufficient to meet the Small House demand in the Area, cross-village applications within the same Heung might be considered under the current land administrative practice. In fact, 58 out of the 124 outstanding Small House applications in the Area were cross-village applications;
- (vi) both government land and private land within the “V” zones could be used for Small House development and land ownership should not be a material planning consideration in formulating the “V” zones;

*Proposals of Expanding and Limiting the “V” Zones*

- (vii) the villagers proposed to expand the “V” zones to the adjoining areas and outside the ‘VE’, which were currently zoned “GB” on the draft OZP. Those areas comprised mainly woodlands, shrublands and seasonally wet grassland which were environmentally sensitive and having high landscape value which should be protected. Some of the areas were overlooked by steep natural terrains, and natural terrain hazard studies might be required for future development to address the geotechnical

constraints. Expansion of the “V” zones into those areas, which would meet the Alert Criteria for Natural Terrain Hazard Studies, was not supported from the geotechnical perspective. They were also mostly located away from the existing village clusters, with no proper existing access, or were subject to flooding risk, etc;

- (viii) during the past two years, disturbances to the natural environment were observed at various locations of the proposed “V” zone expansions including woodland clearance/land filling activities to the northwest of the existing Tai Tan Village, ring-barking of woodland vegetation to the northwest of Uk Tau Village, woodland clearance and “unauthorized” track to the west of the existing northern village cluster of Ko Tong, and woodland clearance, land filling and excavation to the southeast of Ko Tong Ha Yeung Village across Pak Tam Road;
- (ix) the green groups raised concern about designation of “V” zones in Tai Tan and Uk Tau on environmental grounds. The northern “V” zone of Tai Tan was largely kept away from the EIS by about 20m, while the southern “V” zone was mainly to reflect the current extent of Small House developments. The northern part of the “V” zone in Uk Tau mainly covered an existing plant nursery with some vegetation, and was adjoining the existing village cluster, accessible by Pak Tam Road and footpath, and with gentle topography and relatively less vegetation;

*Designation of “GB” and “AGR” Zones*

- (x) the Government proposed rezoning of the “GB” sites for residential developments in other districts had been carried out after careful land use review and subject to technical assessments to ascertain their feasibility. Each planning area should be considered on its individual circumstances and characteristics. As a Country Park Enclave, the Area formed an integral part of the natural system of the adjoining Country Parks with a wide spectrum of natural habitats which should be preserved and protected. Designation of the “GB” zone would not only conserve the natural and landscape characters of the Area, but also provide a buffer

between the village type developments, the natural surroundings and the Country Parks;

- (xi) the natural woodland, riparian zones of the natural streams and the coastal area had been mainly zoned “GB”, “CA” and “CPA” on the draft OZP to reflect their ecological and conservation significance. The Agriculture, Fisheries and Conservation Department (AFCD) considered that the conservation zonings on the draft OZP were appropriate from the nature conservation point of view;
- (xii) for the remaining “AGR” zone proposed by the IIR of Ko Tong Village, it was a small piece of flat land situated in between the existing northern village cluster of Ko Tong and Pak Tam Road, mainly comprising a village access and a lawn with shrubs and younger trees, and hence had been zoned “V” to better reflect its current setting;
- (xiii) private land within the “GB” zone was primarily demised for agricultural purpose under the Block Government Lease, and ‘Agricultural Use’ was in general always permitted under the zoning. For some scattered and isolated building lots, there was provision for their development within the “GB” zone under the planning application system. As such, there was no deprivation of the rights of the landowners in the “GB” zone and no hindrance to farming activities even though the area was not designated for “AGR” zone;

*Designation of the Area as Country Park*

- (xiv) designation of Country Parks was under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) which was outside the purview of the Board. Preparation of the statutory plan would not preclude any future designation of Country Parks;
- (k) no zoning amendments to the previous draft OZP had been proposed and the land use zonings on the draft OZP (No. S/NE-TT/B) were considered appropriate; and

### Consultation

- (1) after the Board's agreement to the publication of the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung OZP under section 5 of the Town Planning Ordinance (the Ordinance), TPDC and SKNRC would be consulted during the exhibition period of the OZP.

81. The Chairman invited questions and comments from Members.

### *Agricultural Land*

82. Noting that there was no "AGR" zone on the draft OZP, Member asked whether there were any special considerations for not designating the agricultural land as "AGR" to better reflect the planning intention and meet the local villagers' request.

83. In response, Mr C.K. Soh, DPO/STN, said that a substantial portion of land in the Area had once been used for agricultural purpose, but was left fallow at the moment. In designating the "AGR" zone on an OZP, consideration would generally be given to a number of factors including whether those areas were still active in farming or had high potential for rehabilitating the farming practice; whether the agricultural use would have adverse impact on the ecology or environment; local villagers' wish; proximity to the village; accessibility; and the availability of transportation and other supporting facilities. For the subject draft OZP, the areas that the villagers requested to be designated as "AGR" zone were either not in active farming use or had conservation value such as woodland. Nevertheless, should the villagers intend to resume the farming practice, agricultural use was permitted in the conservation zones.

### *Small House Demand*

84. Two Members raised the following questions:

- (a) noting that there were four recognised villages in the OZP area, whether the supply and demand for Small House land were assessed individually for each village or collectively; and
- (b) whether PlanD had compiled data on annual Small House applications to verify the accuracy of 10-year Small House Demand forecast.

85. In response to Members' questions above, Mr C.K. Soh made the following main points:

- (a) as presented in Table 1 of the Paper, there was breakdown of the supply and demand for Small Houses for individual villages. The available land to meet new demand was the lowest in Ko Tong Ha Yeung (0.17 ha, 7 Small Houses) as it was surrounded largely by hilly areas without much scope for expansion, and was the highest in Ko Tong (0.79 ha, 32 Small Houses). As a whole, the available land in all areas zoned "V" on the OZP could accommodate 79 small houses. The boundary of the "V" zone was delineated taking into account a number of planning considerations rather than solely to reflecting the outstanding/forecast Small House demand; and
- (b) the 10-year forecast of Small House demand for a village was provided to LandsD by the village representative who might have a systematic record of the indigenous villagers or only made his best estimate. PlanD only had information on the number of planning applications for Small House received under the Ordinance. LandsD compiled the information of the outstanding Small House demand which was the actual number of Small House grant applications under processing by LandsD. Neither the number of planning applications for Small Houses received under the Ordinance nor the outstanding Small House demand compiled by LandsD could be used to verify the accuracy of 10-year forecast of Small House demand.

86. The meeting noted that the outstanding Small House demand and the 10-year forecast were usually presented together for Members' reference in assessing the Small House applications submitted under the Ordinance and in preparation of the rural OZPs.

*Assessment Criteria for Designation of Zoning for Woodland*

87. A Member asked what criteria were used in assessing the value of the woodland to justify the designation of areas as "CA", "GB" or "V". In response, Mr C.K. Soh said that areas proposed to be designated as "CA" generally comprised mature woodland with rich variety of species that would take a long time to develop to such stage and could support a diversified

ecological community. Fung Shui woodland of a village which was protected by villagers over a long period of time was usually zoned “CA”. The woodland proposed to be designated as “GB” zone was usually secondary woodland which was younger in age and more homogeneous in tree species. For trees or tree clusters included in the “V” zone, they were usually smaller in size and not densely grown to form part of a larger woodland.

*“V” Zone in Ko Tong Ha Yeung*

88. Noting that the “V” zone of Ko Tong Ha Yeung had not been proposed for enlargement, a Member asked why the fallow agricultural land on the opposite side of Pak Tam Road was not included in the “V” zone. In response, Mr C.K. Soh said that except on the side abutting Pak Tam Road, the village was surrounded by very steep slopes where Small House development was not desirable nor technically feasible. The site investigation of AFCD and PlanD revealed that the concerned fallow agricultural land was seasonal wetland which was not suitable to be included into the “V” zone despite that local villagers had requested so.

*“V” Zone in Ko Tong*

89. Some Members raised the following questions:

- (a) with reference to the aerial photo on Plan 10c, it was noted that the “V” zone for Ko Tong was proposed to be extended to the northeast (northeastern portion) along Pak Tam Road and to the north (northern portion). The northern portion included most of an ex-playground of a defunct village school (ex-playground) and its adjoining vegetated gentle slopes. It appeared that some of the vegetation cover in the northern portion was similar to those areas zoned “GB” and “CA”. What were the rationales in delineating the “V” boundary of the northern portion;
- (b) whether there were any approved applications in the northeastern portion of the enlarged “V” zone; and
- (c) why the northern portion of the enlarged “V” zone only included part of the ex-playground of the school.

90. In response to Members' questions above, Mr C.K. Soh made the following main points:

- (a) according to AFCD, the area to the north of the existing Ko Tong village was recorded as Fung Shui woodland. PlanD and AFCD had conducted a site investigation for the vegetation cover in the area to verify the record. Based on the findings of the site investigation, the area with dense mature woodland was proposed to be designated as "CA" while the other wooded areas were proposed to be designated as "GB". Noting the Small House need of the local villagers, it was considered that the ex-playground of the school at the flat top of the small knoll and its adjoining gentle slopes with less vegetation cover comprising mainly grasses, shrubs and some small trees and having limited conservation concern could be used for Small House development;
- (b) the portion of the ex-playground to the east which was well vegetated and connected with the surrounding woodland was considered more appropriate to be designated as "GB". Should there be planning applications for Small House in the "GB" zone, each case would be considered on its individual merits; and
- (c) there was no record of approved application in the northeastern portion of the enlarged "V" zone.

91. The Chairman asked why the tree clusters to the southwest of the ex-playground was included into the proposed "V" zone. In response, Mr C.K. Soh said that in proposing to designate the area as "CA" or "GB", AFCD and PlanD would make reference mainly to the conservation value of the covered vegetation as well as its linkage with surrounding areas with conservation value. As for the said tree clusters, they were isolated from other dense woodlands and surrounded by areas suitable for "V" zone. After balancing all factors, it was recommended for inclusion into the "V" zone.

92. Some Members made the following comments:

- (a) given that some of the northern portion of the enlarged "V" zone had large tree clusters, and the northeastern portion was disturbed land with less vegetation

cover, whether it would be more appropriate to scale down the northern portion to exclude the tree clusters and extend the northeastern portion;

- (b) there was inconsistency in designating land for “V” zone. While the concerned tree clusters on the apparently undisturbed slopes were included in the northern portion of the “V” zone, the eastern part of the ex-playground with only vegetation/trees overgrown was not included in the “V” zone. Further justification was required for the proposed delineation of the “V” zone ;
- (c) the two tree clusters on the slopes should be excluded from the “V” zone as Small House development on the slopes might involve substantial site formation works and tree felling; and
- (d) whether the inclusion of the cleared site at the western side of the northern portion into the “V” zone would encourage ‘destroy first, build later’ activities.

[Miss Winnie W.M. Ng left the meeting at this point.]

93. In response to Members’ views and comments above, Mr C.K. Soh made the following main points:

- (a) as shown in the aerial photo taken on 8.11.2013 (i.e. the publication date of the first DPA plan), the area at the western side of the northern portion of the enlarged “V” zone had limited vegetation cover and a flat topography which would unlikely require substantive site formation works for Small House development. Applications for Small House development in that area were subsequently approved. It was on that basis that the area was included into the enlarged “V” zone; and
- (b) the slopes to the west and southwest of the flat top were gentle, thus extensive cut and fill was not expected. As the areas on both sides of the gentle slopes were considered appropriate for Small House development, that slopes were proposed for inclusion into the “V” zone to prevent a truncated boundary of the zone;

94. Regarding whether the eastern part of the ex-playground and the tree clusters to the southwest of the ex-playground should be zoned as “V”, the Vice-chairman and two Members made the following main points:

- (a) the eastern part of the ex-playground currently proposed to be zoned as “GB” was adjoining the proposed “CA” zone which was intended to protect natural vegetation/ecological habitats of high conservation value. Even though the vegetation on that eastern part of the ex-playground might be overgrown, as long as that vegetation cover was well established and in good condition, they could function as a buffer between the future village establishment and the “CA” zone;
- (b) although tree survey was not available, it was likely that the tree species on the “GB” portion of the ex-playground were the same as the Fung Shui woodland in the adjoining “CA” zone; and
- (c) as in other OZPs for country park enclaves, there were always conflicting views on the extent of “V” zone and conservation zones, and a balance had to be struck. The proposed zonings in the current OZP were considered appropriate.

95. A Member, quoting the zoning amendment of Yin Ping Road site as an example, said that ex-playground even with vegetation overgrown could be considered for Small House development. The Vice-chairman said that the Board had adopted different approaches in the Yin Ping Road site and the Tai Po site. Each case should be considered on its individual merits.

96. Mr K.K. Ling, Director of Planning, said that the OZP provided broadbrush zonings to guide developments in the area. Under such broadbrush zonings, the area zoned “V” should be largely suitable for Small House development, but there might be trees, ponds or other features scattered within the zone. Nevertheless, those features, if having conservation value, could still be protected administratively in the processing of the Small House grant applications by LandsD. For the portion of the ex-playground under the proposed “GB” zone, it could serve as a buffer for the “CA” zone against the spill-over of the village type development.

97. In response to a Member's enquiry on whether there was aerial photograph of the area taken in 2016, Mr C.K. Soh said that the aerial photo taken by the Government in 2016 for the area was not yet available and it was the usual practice to present the latest aerial photo to the Board if available.

98. The meeting agreed that, on balance, the draft OZPs with the various zonings proposed was suitable to be published for public inspection and any public views received would be dealt with in the representation hearing process.

99. After further deliberation, Members noted the comments from and responses to the TPDC, SKNRC, concerned IIRs and indigenous villagers, and the green/concern groups on the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung OZP No. S/NE-TT/B in Parts 3 and 4 of the Paper. Members also agreed:

- (a) that the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung OZP No. S/NE-TT/B (to be renumbered as S/NE-TT/1 upon gazetting) and its Notes (Annexes I and II of the Paper) were suitable for exhibition for public inspection under section 5 of the Ordinance;
- (b) to adopt the Explanatory Statement (ES) (Annex III of the Paper) as an expression of the planning intentions and objectives of the Board for various land use zonings of the draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung OZP No. S/NE-TT/B; and
- (c) that the ES was suitable for exhibition for public inspection together with the draft OZP and issued under the name of the Board.

100. Members noted that, as a general practice, the Secretariat of the Board would undertake detailed checking and refinement of the draft OZP including the Notes and ES, if appropriate, before its publication under the Ordinance. Any major revision would be submitted for the Board's consideration.

101. The Chairman thanked the PlanD's representatives for their presentation and they left the meeting at this point.

[Mr Alex T.H. Lai left the meeting at this point.]

**Fanling, Sheung Shui & Yuen Long East District**

**Agenda Item 9**

[Open Meeting]

Request for Deferment of Review of Application No. A/NE-KTS/404

Proposed Petrol Filling Station with Ancillary Facilities including Office, Shop and Services, Public Toilet, Public Car Park and Excavation of Land in “Green Belt” Zone and Area shown as ‘Road’, Lots 3350 S.B ss.1 S.A (Part), 3351 S.B ss.1 (Part) and 3351 S.B ss.2 (Part) in D.D. 91 and Adjoining Government Land, Fan Kam Road, New Territories

(TPB Paper No. 10146)

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[The meeting was conducted in Cantonese and English.]

102. The Secretary reported that Dr Lawrence K.C. Li had declared an interest in the item as he was a member of the Hong Kong Golf Club, which was located to the north of the application site. Members noted that Dr Lawrence K.C. Li had tendered apology for being unable to attend the meeting.

103. The Secretary reported that on 19.7.2016, the applicants’ representative wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application for two months in order to allow time for the applicants to study and address the comments from Transport Department, Highways Department, Fire Services Department and Urban Design and Landscape Section of Planning Department.

104. It was the applicant’s first request for deferment. Members noted that the justification for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33) in that the applicants needed more time to prepare further information in response to departmental comments, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

105. After deliberation, the Board agreed to defer a decision on the review application for two months, pending the submission of further information by the applicants. The Board also agreed that the review application should be submitted for its consideration within three months upon receipt of the further submission from the applicant. If the further information submitted by

the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicant that the Board had allowed a period of two months for preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 10**

[Closed Meeting]

[The item was conducted in Cantonese.]

106. This item was recorded under confidential cover.

**Agenda Item 11**

[Open Meeting]

Submission of the Draft Yuen Long Outline Zoning Plan No. S/YL/22A under Section 8 of the Town Planning Ordinance to the Chief Executive in Council for Approval  
(TPB Paper No. 10153)

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[The item was conducted in Cantonese.]

107. The Secretary reported that the proposed youth hostel at the representation site would be developed by Po Leung Kuk (PLK) and PLK (R1) had submitted a representation. The following Members who had current business dealings/affiliations with PLK had declared interests in the item:

Mr Stephen L.H. Liu - having current business dealings with PLK  
(R1)

Mr Franklin Yu - having past business dealings with PLK (R1)

Dr Wilton W.T. Fok - being a Director of a primary school of PLK  
(R1)

108. As the item was procedural in nature, the meeting agreed that above Members could stay in the meeting. The meeting noted that Dr Wilton W.T. Fok had tendered apology for being unable to attend the meeting.

109. The Secretary briefly introduced the Paper. On 11.12.2015, the draft Yuen Long OZP No. S/YL/22, incorporating amendments on the rezoning of an area to the southwest of the junction of Shap Pat Heung Road and Tai Shu Ha Road West in Ma Tin Pok from “Village Type Development” (“V”) to “Government, Institution or Community (5)” (“G/IC(5)”) and the rezoning of an area at the same junction from “G/IC(1)” to “G/IC(5)”, was exhibited for public inspection under section 5 of the Ordinance.

110. During the two-month exhibition period, four representations were received. On 4.3.2016, the representations were published for three weeks for public comments. No comment was received. After giving consideration to the representations under section 6B(1) of the Ordinance on 8.7.2016, the Board decided not to propose any amendment to the draft OZP to meet the representations under section 6B(8) of the Ordinance. Since the representation consideration process had been completed, the draft OZP was now ready for submission to the Chief Executive in Council (CE in C) for approval.

111. After deliberation, the Board agreed:

- (a) that the draft Yuen Long OZP No. S/YL/22A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statement (ES) for the draft Yuen Long OZP No. S/YL/22A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) that the updated ES was suitable for submission to the CE in C together with the draft OZP.

**Agenda Item 12**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Aberdeen & Ap Lei Chau Outline Zoning Plan No. S/H15/30  
(TPB Paper No. 10123)

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[The meeting was conducted in Cantonese.]

112. Dr Wilton W.T. Fok declared interest in the item for owning property in South Horizons, Ape Lei Chau. The meeting noted that Dr Wilton W.T. Fok had tendered apology for being unable to attend the meeting.

113. The Secretary briefly introduced the Paper. On 24.12.2015, the draft Aberdeen & Ap Lei Chau Outline Zoning Plan (OZP) No. S/H15/30 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 607 representations and 16 comments on representations were received.

114. One of the representations (R605) was submitted by the South Horizons Estate Owners' Committee (SHEOC) which provided an analysis of an opinion survey carried out by the SHEOC on the proposed rezoning of Lee Nam Road site for residential development (Amendment Item A) during the period from 2 to 16 July 2015 (before the gazettal of the concerned amendments to the OZP under section 5 of the Ordinance). A total of 1,959 questionnaires completed by the residents of South Horizons in the opinion survey were attached to the representation. During the public inspection period of the representations, the SHEOC submitted a comment (C6) stating that each questionnaire attached to their representation (R605) should be treated as one representation such that each questionnaire respondent could express their views to the Board in person. It was considered more appropriate to treat the submission made by SHEOC as a single representation. Notwithstanding, flexibility could be allowed for individual questionnaire respondents to attend the representation hearing to express their views to the Board in person.

115. In view of the large number of representations and comments received and to ensure efficiency of the hearing, separate hearing sessions would be arranged. Since all the opposing representations were related to Amendment Item A and the grounds of objection were similar, the comments and representations should be considered collectively by the Board. It was also

recommended to allot a maximum of 10 minutes presentation time to each representer/commenter in the hearing sessions, subject to confirmation of the number of representers and commenters attending the hearing and the aggregate presentation time required. Consideration of the representations and comments by the full Board was tentatively scheduled for September 2016.

116. After deliberation, the Board agreed that :

- (a) the representation submitted by SHEOC should be treated as a single representation while allowing the flexibility for individual questionnaire respondents to attend the representation hearing to express their views in person as proposed;
- (b) the representations and comments should be heard by the Board in the manner as proposed in paragraph 3 of the Paper; and
- (c) the Chairman would, in liaison with the Secretary, decide on the need to impose the 10-minute presentation time for each representer/commenter, taking into account the number of representers and commenters attending the hearing.

### **Agenda Item 13**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Cheung Sha Wan Outline Zoning Plan No. S/K5/36

(TPB Paper No. 10154)

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[The meeting was conducted in Cantonese.]

117. The Secretary briefly introduced the Paper. On 11.3.2016, the draft Cheung Sha Wan Outline Zoning Plan No. S/K5/36 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 26 representations and two comments were received.

118. It was recommended that the representations and comments should be considered collectively in one group by the full Board. The hearing could be accommodated in the Board's regular meeting and a separate hearing session would not be necessary.

119. To ensure efficiency of the hearing, it was recommended to allot a maximum of 10 minutes presentation time to each presenter/commenter in the hearing session. Consideration of the representations and comments by the full Board was tentatively scheduled for September 2016.

120. After deliberation, the Board agreed that :

- (a) the representations and comments should be heard by the Board in the manner as proposed in paragraph 3 of the Paper; and
- (b) the Chairman would, in liaison with the Secretary, decide on the need to impose the 10-minute presentation time for each presenter and commenter, taking into account the number of presenters and commenters attending the hearing.

#### **Agenda Item 14**

[Open Meeting]

#### **Any Other Business**

[The item was conducted in Cantonese.]

#### **Guidance Notes on Attending the Meeting for Consideration of Representations, Comments and Further Representations under the Town Planning Ordinance**

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121. The Secretary said that a set of draft 'Guidance Notes on Attending the Meeting for Consideration of Representations, Comments and Further Representations under the Town Planning Ordinance' (GN) was prepared by the Secretariat and tabled for Members' consideration.

122. The draft GN was modelled on the previous GNs issued for special hearing meetings and the GN on hearing of representations/further representations adopted by the Board.

123. After deliberation, the meeting agreed on the GN and that the GN would be promulgated and be used for all future hearings of representations, comments and further representations.

124. There being no other business, the meeting was adjourned at 3:40pm.