

**Minutes of 912th Meeting of the
Town Planning Board held at 9.00 am on 30.5.2008**

Present

Permanent Secretary for Development
(Planning & Lands)
Mr. Raymond Young

Chairman

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Mr. Edmund K.H. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Dr. Daniel B.M. To

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Ms. Ava Chiu

Director of Lands
Miss Annie K.L. Tam

Deputy Director of Environmental Protection
Dr. Michael Chiu

Director of Planning
Mrs. Ava Ng

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

Secretary

Absent with Apologies

Dr. Greg C.Y. Wong

Vice-Chairman

Mr. Stanley Y.F. Wong

Mr. Alfred Donald Yap

Professor David Dudgeon

Mr. Tony C.N. Kan

Professor N.K. Leung

Ms. Maggie M.K. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Mr. K.Y. Leung

Mr. Maurice W.M Lee

Professor Edwin H.K. Chan

Mr. Rock C.N. Chan

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Dr. Ellen Y.Y. Lau

Assistant Director (2), Home Affairs Department
Ms. Margaret Hsia

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Mr. C.T. Ling

Senior Town Planner/Town Planning Board
Ms. Teresa L.Y. Chu

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 910th Meeting held on 14.5.2008 and 911th Meeting held on 16.5.2008

[The meeting was conducted in Cantonese.]

1. The minutes of the 910th Meeting held on 14.5.2008 were confirmed subject to amending the 1st and 2nd sentences of paragraph 26 to ‘Ms. Ava Chiu stated that there were strong reactions from the PCWA operators to the decommissioning of the Cha Kwo Ling and Kwun Tong PCWA as such move was seen to be affecting their livelihood. Given that the Western District PCWA would remain at the current location in the short to medium term and its future land use was yet to be reviewed, it seemed inappropriate to rezone part of the site to “O” at this stage, taking into account the sentiment of operators’.
2. The minutes of the 911th Meeting held on 16.5.2008 were confirmed without amendment.

Agenda Item 2

[Open meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

(i) Proposed Amendments to the Draft North Point Outline Zoning Plan

3. The Secretary reported that the Board, after considering the representations in Group 1 in respect of the draft North Point OZP, agreed to propose amendments to the building height restrictions in addition to those amendments proposed by PlanD as set out in TPB Paper No. 8059 to partially meet some of the representations. The proposed amendments were published on 30.5.2008 under s6(C)2 of the Town Planning Ordinance for public inspection. Further representations might be submitted during the first 3 weeks of the publication period. A copy of the draft North Point OZP incorporating further amendments agreed by the Board was tabled for Members’ information.

(ii) Approval of Two Outline Zoning Plans (OZPs)

4. The Secretary reported that on 6.5.2008, the Chief Executive in Council (CE in C) approved the draft Yau Ma Tei (OZP) Plan No. S/K2/19A (renumbered S/K2/20) and draft Tam Tam & Shek O (OZP) Plan No. S/H18/9A (renumbered S/H18/10) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance). The approval of these OZPs had been notified in the Gazette on 16.5.2008.

(iii) Reference Back of OZP

5. The Secretary reported that on 6.5.2007, the CE in C referred the approved Wang Tau Hom & Tung Tau OZP No. S/K8/17 to the Board for amendment under section 12(1)(b)(ii) of the Ordinance. The reference back of the approved OZP for amendment had been notified in the Gazette on 16.5.2008.

[Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

Agenda Item 3

[Open meeting (Presentation and Question Session Only).]

Review of Application No. A/YL-KTS/412

Temporary Open Storage and Assembly of Internal Equipment and Installations (Seats and Electronic Circuits) of Public and Franchised Buses for a Period of 3 Years in “Residential (Group D)” zone, Lots 1318(Part) and 1321(Part) in DD 106, Kong Ha Wai, Kam Sheung Road, Pat Heung, Yuen Long

(TPB Paper No. 8110)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

6. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD) and the applicant, Mr. Lau Wing-kit, were invited to the meeting at this point.

7. The Chairman extended a welcome and explained briefly the procedures of the

review hearing. The Chairman then invited [Mr. Wilson So](#) to brief Members on the background to the application. With the aid of some plans, [Mr. So](#) did so as detailed in the Paper and made the following main points:

- (a) the reasons of the Rural and New Town Planning Committee (RNTPC) to reject the application for temporary open storage and assembly of internal equipment and installations (seats and electronic circuits) of public and franchised buses for a period of 3 years at a site zoned “Residential (Group D)” (“R(D)”) on the Kam Tin South Outline Zoning Plan on [1.2.2008](#);
- (b) no further submission was put forth by the applicant in support of the review application;
- (c) departmental comments – Director of Environmental Protection (DEP) commented that in accordance with the revised Code of Practice, the case was not supported due to sensitive receivers in the vicinity. The landscape and drainage proposals were considered inadequate by concerned departments;
- (d) comment from a Member of the Yuen Long District Council was received during the public inspection period, objecting on traffic grounds. The applied use would generate large amount of heavy vehicle trips on Kam Shui South Road which was narrow and with unsatisfactory condition, thus causing safety problem to residents; and
- (e) PlanD’s view – not supporting the application as the application was not in line with the Town Planning Board Guidelines (TPB PG) No. 13D as there was no previous approval for the site and there was insufficient assessment to demonstrate its acceptability. DEP did not support the application due to environmental concern. The site was subject to enforcement and the owner was recently prosecuted and convicted. Despite approvals of other temporary uses in the vicinity, the current application, involving storage and workshop activities in an open environment and likely to create environmental impact to surrounding areas, did not warrant the same considerations. Approving the application would set an undesirable precedent for similar cases within the “R(D)” zone.

[Prof. Bernard V.W.F. Lim and Dr. Daniel B.M To arrived to join the meeting at this point.]

8. The Chairman then invited the applicant to elaborate on the application. With the aid of some plans, Mr. Lau Wing-kit made the following main points:

- (a) the proposed use was not incompatible with similar uses in the vicinity including storage yards of larger size close by. 36 out of the 39 planning applications for similar uses in this area had been approved;
- (b) the operation was for storage and assembly and installations of internal equipment for public and franchised buses, such as seats and electronic circuits but no dismantling was involved;
- (c) instead of resorting to the shorter route connecting northwards to Kam Sheung Road, the applicant would use the longer southern route via Kam Shui South Road, which was wider and safer, with passing bays and little pedestrians and vehicular traffic (only about 6-7 vehicles in day time);
- (d) despite their effort to search for alternative site for relocation, no suitable site could be identified in the Pat Heung area; and
- (e) regarding the rejection reasons on planning intention and undesirable precedent, a number of cases in the vicinity were approved on the consideration that they were not incompatible with surrounding uses while impacts could be addressed by imposition of approval conditions. The latest case to the south of the site, i.e. A/YL-KTS/417, was approved on 28.3.2008. The application site was in operation for a long time and there were no complaints on the environmental, traffic and security aspects. The screening of the site by periphery trees was considered adequate by the Chief Town Planner/Urban Design and Landscape, PlanD. No objection was raised by concerned departments. The applicant was willing to comply with approval conditions if permission was granted.

[Miss Annie Tam arrived to join the meeting at this point.]

9. Members sought clarification from Mr. [Wilson So](#) on the following:

- (a) the condition and nature of Kam Shui South Road and whether it was a

maintenance access;

- (b) the comment by Highways Department (HyD) regarding lack of maintenance responsibility of the access; and
- (c) whether the approved applications referred by the applicant in the vicinity were of similar nature and within the same zone.

10. **Mr. Wilson So** replied with the following main points:

- (a) access to the site could be gained via Kam Shui South Road and an unnamed local access. Both roads were connected to Kam Sheung Road at different sections. Kam Shui South Road was a public road and not a maintenance access. The width of Kam Shui South Road varied. It was generally about 3m-3.5m except for the sections with lay-bys which were about 4m-7m;
- (b) there was a short stretch of local road connecting the site to the main road where maintenance was not under the auspices of HyD. Generally speaking, maintenance would be taken up by the applicant who proposed such access; and
- (c) as the application site fell within Category 3 area of the TPB PG No. 13D where cases would normally not be favourably considered, unless with previous approval and no local objection and adverse departmental comments, so as to discourage spread of temporary open storage uses. The majority of the approved cases were located to the far north close to Kam Tin Road and to the south along Kam Tin Road. The approval of Application No. A/YL-KTS/417 to the immediate south for storage and modification workshop was not comparable, as it was the subject of 5 previous approvals since 1998 and in line with the then TPB guidelines. There were no adverse departmental comments and additional approval conditions were imposed to address potential impacts such as restrictions on paint spraying and operation time. Another approval to its south, Application No. A/YL-KTS/363, was a subject of 3 previous approvals and the proposed use was changed from temporary timber processing workshop to temporary warehouse for storage of recycled timber in enclosed

warehouse. Hence, the current application did not warrant the same considerations.

11. Members sought clarification from the applicant on the following:

- (a) the daily patronage and number of vehicles on site;
- (b) duration of storage and installation process; and
- (c) whether the applicant was willing to take up the maintenance responsibility of the access connecting to the main road.

12. Mr. Lau Wing-kit replied that 4 to 5 vehicles would arrive at the application site at the same time on a certain day and then remained on site for a few days for installation. The vehicles would also be delivered during off-peak hours to avoid congestion along the road. The applicant was willing to take up the maintenance responsibility of the access connecting to the main road.

13. As the [applicant](#) had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the [applicant](#) and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

14. Members were generally not in support of the subject application and had the following views:

- (a) the application site was within Category 3 area of the TPB PG No. 13D where the intention was not to encourage additional open storage uses. Approval of the application would frustrate the general planning intention of the "R(D)" zone;
- (b) given the road condition, it would be undesirable to allow movement of double decker buses; and

- (c) notwithstanding other temporary uses with previous approvals in the vicinity, the cumulative effect of approving such applications would lead to general degradation of the environment of the area.

15. The Chairman agreed that the application should be considered in accordance with the prevalent guidelines and the cumulative impacts of such approvals would be undesirable to the overall environment. He also noted that there were adverse departmental comments and local objection. The reason for rejections should however be revised with regard to the comments by the applicant. Members agreed that the subject application should not be supported.

16. After further deliberation, the Board decided to reject the application on review and the reasons were:

- (a) the development was not in line with the planning intention of the “R(D)” zone covering a large area to the south of Tung Wui Road and east of Kam Sheung Road. The planning intention was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. No strong justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application did not comply with the TPB PG-No. 13D in that there was no previous approval granted at the site and there was adverse comment from Government department;
- (c) there was insufficient information to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding areas; and
- (d) the approval of the application, even on a temporary basis, would have cumulative effect and result in a general degradation of the rural environment of the area.

Agenda Item 4

[Open meeting (Presentation and Question Session Only)]

Request for Deferral of Review of Application No. A/K15/83

Proposed Flat in “Residential (Group E)” zone, 8 Sze Shan Street, Yau Tong (YTIL 36)

(TPB Paper No. 8109)

[The meeting was conducted in Cantonese]

Presentation and Question Session

17. The Secretary said that the on 6.5.2008, the applicant’s representative wrote to the Secretary of the Board requesting the Board to defer making decision on the review application in order to allow time to prepare technical assessments for further consultation with relevant Government departments.

18. The Secretary said 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 made under the Town Planning Ordinance (TPB PG-No. 33).

19. After deliberation, the Board agreed to the request for deferment and that the application would be submitted to the Board for consideration within three months upon receipt of further submission from the applicant. The applicant should be advised that the Board had allowed a maximum 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 5

[Open Meeting. Presentation and Question Sessions Only.]

Consideration of Representations and Comments in Respect of the
Draft Tai Po Outline Zoning Plan No. S/TP/20

(TPB Paper Nos. 8108 and 8113)

Representations

Group 1 : R1 to R11

Group 2 : R12 and R13

Comments

Group 1 : C1

Group 2 : C2-C46

[The hearing was conducted in English and Cantonese.]

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

Mr. Stanley Y.F. Wong	Being the Chairperson of Friends of the Earth which was one of the Commenters (C2)
Mr. Donald Yap	Being the Executive Councillor of Heung Yee Kuk where one of its member, Tai Po Rural Committee, had submitted a representation (R4)

21. It was noted that Mr. Stanley Y.F. Wong and Mr. Donald Yap had tendered apologies for not being able to attend the meeting.

Presentation and Question Session

22. The following government team including representatives from the [Planning Department \(PlanD\)](#) and Agriculture, Fisheries and Conservation Department ([AFCD](#)) were invited to the meeting at this point:

Mr. W.K. Hui	District Planning Officer/Shatin, Tai Po and North District (DPO/STN), PlanD
Dr. Kenneth Tang	Senior Town Planner/Shatin, Tai Po and North District (STP/STN), PlanD
Mr. Patrick C.C. Lai	Senior Nature Conservation Officer, AFCD

23. The following representers, [commenter and their](#) representatives were also invited to the meeting:

Group 1 : R1 to R11, C1

R1

Mr. Chan Siu Kuen - Representer's representative

R4

Mr. Man Chun Fai - Representer's Representative

R8

Mr. Yau Fuk Ping - Representer

R11

Mr. Lee Wing Keung - Representer

R5

Mr. Kong Mau Kiu - Representer

R6

Mr. Wan Man Kit - Representer

R7

Mr. Kong Kap Hing - Representer

R9

Mr. Lee Wong Shing - Representer

R10

Mr. Lee Siu Man - Representer

Commenter

C1

Mr. Chan Siu Kuen - Commenter

Group 2 : R12 and R13

R12

Mr. Ruy Barretto - Representer

Mr. I.B. Brownlee) Representer's representatives

Dr. Roger Kendrick)

24. The Chairman extended a welcome and [briefly explained the hearing procedures](#). Sufficient notice has been given to all the representers/commenters, but some of them had not given any reply or indicated that they would not attend or be represented at the hearing. Members agreed to proceed with the hearing in the absence of these representers/commenters.

25. Referring to a memo from District Officer/Tai Po (DO/TP) to DPO/STN dated 26.5.2008 tabled at the meeting, the Chairman informed the Board that a motion against the proposed Amendment A3 had been passed by the Environment, Housing and Works Committee of the Tai Po District Council (TPDC) in January 2008 and the same objection was raised by the Tai Po Rural Committee (TPRC) in their general meeting held in March 2008. A copy of the Heung Yee Kuk's letter dated 29.5.2008 on the same issue was also tabled for Member's information. He also said that a petition, led by the representative of R1, Mr. Chan Siu Kuen, was staged that morning and the petition submission (containing mainly photographs) were displayed at the meeting for Members' information. [He then invited Dr. Kenneth Tang, STP/STN](#), to brief Members on the background of representations.

26. With the aid of a powerpoint presentation and videos of the representation sites, [Dr. Kenneth Tang](#) briefed Members on the Paper and made the following main points:

Background

- (a) on 21.12.2007, the draft Tai Po Outline Zoning Plan No. S/TP/20 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). Major amendments included Amendment Items A1-A3 for rezoning various areas at Tai Po Kau and Pai Mun Shan to "Conservation Area" ("CA") and Amendment Item A4 for rezoning a Grade II historic building 'Tai Po Lookout' to "Other Specified Uses" annotated "Historical Building Preserved for Cultural and Community Uses". During the two-month exhibition period, 13 representations were received. On 29.2.2008, the Board published the representations for three weeks for public comments and 46 valid comments were received;
- (b) on 25.4.2008, the Board decided to consider all the representations and comments collectively in its full board meeting in 2 groups, i.e. Group 1 comprising Representations No. R1-R11 and related Comment C1, and Group 2 comprising R12-R13 and related Comments C2-C46;

- (c) the representation sites were involved in a previous s12A (Y/TP/2) submitted by R12 in 2006. The RNTPC on 20.10.2006 decided to partially agree to the rezoning to amend various zones in Tai Po Kau and Pai Mun Shan area for better conservation of landscape and ecological values. Amendment Items A1-3 and B1-3 were to take forward the Board's agreement to rezone the area from "GB" to "CA". As 'Burial Ground' was a Column 2 use under the previous "GB" zoning, 'Burial Ground' had been included under Column 2 of the current "CA" zone so that future extension of existing burial grounds could be considered by way of planning application. The existing burial grounds would not be affected by the "CA" zoning;

Representations

- (d) Group 1 representations, R1-11, were submitted by the Environmental, Housing and Works Committee of the TPDC, the TPRC and the villagers of Cheung Shue Tan and Tai Po Mei and their representatives;
- (e) for Group 2 representations, R12 was submitted by Messrs. Ruy Barretto and Leo Barretto represented by Mr. I.B. Brownlee of Masterplan Ltd. and R13 by Mr. C.A. van Hasselt;

Group 1 Representations, R1-11

Grounds of Representations

- (f) there was concern over the use of existing burial grounds in Pai Mun Shan area and opposition to Amendment Item A3 for rezoning the area from "GB" to "CA". The "CA" zoning had intruded the rights of indigenous villagers protected under the Basic Law and would make future application for burial ground extensions more difficult and complicated;

Representers' Proposals

- (g) R1, R5-R11 proposed to revert the "GB" zoning for Pai Mun Shan Area. R2-4 had not proposed any amendment to the Plan.

Comments

- (h) C1 was received from Mr. Chan Siu Kuen, District Council Member of the

TPDC, in support of R1-R11 and their proposed amendments;

Assessment of Representations and Proposals

- (i) the Pai Mun Shan area, being densely wooded and largely undisturbed, consisted mainly of steep and inaccessible slopes. For the 3 existing designated burial grounds, TP/S19 was densely wooded while TP/S20 and TP/S24 were vegetated mainly with grasses, shrubs and some scattered trees;
- (j) DAFC supported in-principle the current “CA” zone since the area was largely a dense woodland dominated by native trees worth preserving and served as a buffer zone and ecological linkage to other natural habitats. Nevertheless, given the presence of existing burial grounds within TP/S20 and TP/S24 which were less well-wooded, he had no strong view to rezoning these 2 areas to “GB” to partially meet the villagers’ suggestion;
- (k) the rights of indigenous villagers for burial ground use had been reflected in the current “CA” zoning. Similar to the previous “GB” zoning, continued use of existing burial grounds was allowed while ‘Burial Ground’ was a Column 2 use under the “CA” zone so that further expansion could be considered by way of planning application. Hence, in view of the above and given the topographical setting, the current “CA” zoning was considered appropriate for the majority area of Pai Mun Shan to preserve its landscape value and reflect the traditional rights of local villagers. In view of DAFC’s latest advice, the boundary of the “CA” zone could be refined to exclude 2 burial grounds, i.e. TP/S20 and TP/S24, for rezoning back to “GB” to partially meet R1-11;
- (l) based on the above assessments, PlanD had no objection to amend the Plan to partially meet R1-11 by rezoning two existing burial grounds (TP/S20 and TP/S24) from “CA” to “GB”. The remaining parts of the representations were not supported for various reasons as stated in para 6.2 of Paper 8108;

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

Group 2 Representations, R12-13

Grounds of Representations

Proper conservation for the Tai Po Kau Headland and surrounding areas

- (m) as the Tai Po Kau Headland currently zoned “CA” had a highly diverse woodland habitat with mature and rich lowland forest, a higher degree of protection was required to retain their inherent value. The two ponds, bordered to the north by Tolo Highway and south by the railway, were areas of tidal mud and mangrove serving as feeding ground for egrets of different species and other shore birds, hence should be taken as a buffer to compliment the Headland. The areas to the west and southeast were important buffer areas to protect the Headland from impacts of development, hence should be properly zoned to provide an essential ecological linkage with the Pai Mun Shan area;

Proper conservation for the Historic Building ‘Tai Po Lookout’

- (n) as the historic building ‘Tai Po Lookout’ had always been used as a house, ‘House’ should be a Column 1 use always permitted in the Notes for the “Other Specified Uses (Historical Building Preserved for Cultural and Community Uses)” zone. ‘Private Club’ under Column 2 was incompatible with the planning intention of the heritage zoning and should be deleted;

Representers’ Proposals

- (o) R12 and R13 proposed the following amendments:

For Conservation of Tai Po Kau Headland and surrounding areas

- to rezone the Tai Po Kau Headland under Amendment Item A1 from “CA” to “Site of Special Scientific Interest” (“SSSI”);
- to rezone the buffer areas of the Headland, including two inter-tidal ponds bounded by the Tolo Highway, the railway and the Headland (not covered by any amendment item), from “Recreation Priority Area” (“RPA”) and “GB” to “CA”
- to amend the Notes as follows:
 - to delete ‘Burial Ground’ use from Column 2 of the Notes of the “GB” zone;
 - to delete ‘On-Farm Domestic Structure’ use from Column 1 and ‘Burial Ground’ and ‘Radar, Telecommunications Electronic Microwave Repeater, Television and/or Radio Transmitter Installation’ uses from Column 2 of the Notes of the “CA” zone;
 - to delete “Agricultural Use’, ‘On-Farm Domestic Structure’, ‘Picnic Area’,

‘Public Convenience’, ‘Public Utility Installation’, ‘Tent Camping Ground’ and ‘Utility Installation for Private Project’ uses from Column 2 of the Notes of the “SSSI” zone;

- to make amendments to the planning intention of the “SSSI” zone which was considered too narrow and of departure from the Master Schedule of Notes (MSN);
- to delete paragraph 6 of the Covering notes regarding temporary uses;

- Proper conservation for the Historic Building ‘Tai Po Lookout’*
- (p) amend the planning intention of the “OU (Historical Building Preserved for Cultural and Community Uses)” zone in the Notes and Explanatory Statement (ES) to reiterate the heritage value of buildings within the ‘Tai Po Lookout’ and its overall setting.

Comments

- (q) C2-46 were received in respect of R12 and all of them were in support of the amendments proposed by R12;

Assessment of Representations and Proposals

Proper conservation for the Tai Po Kau Headland and surrounding areas *Proposed rezoning of the Tai Po Kau Headland from “CA” to “SSSI”*

- (r) DAFC advised that based on PELB’s criteria 1993, the fundamental principles for SSSI selection were the uniqueness and scientific value of the site in a territory-wide context and its representativeness. Based on the review on the biological information provided, the proposal at Tai Po Kau Headland did not present a strong case for SSSI designation under the existing practice in Hong Kong. It could not demonstrate that it possessed the special scientific interest or was the best examples of its kind in terms of habitat quality. The site was rezoned from “GB” to “CA” to ensure better protection in considering the s12A application from R12. The current “CA” zoning was considered appropriate;
- (s) regarding R12’s reference to Sha Lo Tung on the holistic approach for designation of SSSI, DAFC clarified that Sha Lo Tung was so designated due to a diversity of dragonfly populations while its boundary was delineated to conserve the stream courses and the buffer zones which were the core

habitats of the dragonflies and other wetland organisms. Applying such approach to the Headland for a combination of wild, natural, cultural and built heritage considerations to justify the SSSI status was not supported as it deviated from the current SSSI system in Hong Kong;

Proposed rezoning for the buffer areas of Tai Po Kau Headland from “GB” and “RPA” to “CA”

- (t) similar request for rezoning of the buffer areas from “GB” and “RPA” to “CA” by R12 in 2006 (Y/TP/2) was not supported by RNTPC mainly on the grounds that the buffer areas were fragmented by residential developments, roads, railway lines and associated slopes, and fell within the ‘village environs’ of Tai Po Kau Village. Rezoning to “CA” would limit the flexibility of future uses and affect the implementation of road works;
- (u) in view of R12’s new information, i.e. the two inter-tidal ponds near the Headland being an important habitat for egrets and other shore birds, DAFC supported part of the proposal and considered it appropriate to rezone the inter-tidal pond located to the *west* of the Headland between Tolo Highway and MTR railway from “RPA” to “CA” as it was contiguous with another “CA” zone (under Amendment Item A2) at Tolo Pond Mangrove and consisted of mangroves and mudflat, which was one of the feeding habitats of egrets/heron in the sea worth of protection. However, for the inter-tidal pond *east* of Headland currently zoned “GB” and the remaining buffer areas, the landscape value was only moderate based on the Landscape Value Mapping Study of Hong Kong. The current “GB” and “RPA” zonings were appropriate and flexible having regard to the existing uses and ecological value of the areas;
- (v) Chief Town Planner/Urban Design and Landscape (CTP/UD&L) opined that there should be a control to restrict pond-filling activities in the inter-tidal pond areas. Relevant revisions to amend the Notes of the “CA” and “GB” zone were suggested to address the representers’ concerns;

Proposed amendments to the covering Notes and Notes of “GB”, “CA” and “SSSI” zones

To delete 'On-Farm Domestic Structure' use from Column 1 of "CA" zone

- (w) according to the Definition of Terms used by all OZPs, 'On-Farm Domestic Structure' means a single storey residential unit of not more than 37m² on agricultural land for habitation of the farmer who worked on the farm (including fish-farm). Such use was considered small in scale and not incompatible with the planning intention of the broad "CA" zone. As such use was a Column 1 use in all "CA" zones in OZPs, there was no strong reason to depart from this convention;

To delete 'Burial Ground' from Column 2 of the Notes of the "CA" zone

- (x) the proposal to delete 'Burial Ground' use in the Notes of the "CA" zone would affect the indigenous villagers' right to apply for new/extension of burial grounds and hence not supported. Sufficient control had been provided as any new/extension of burial grounds required planning permission;

To delete 'Radar, Telecommunications Electronic Microwave Repeater, Television and/or Radio Transmitter Installation' uses from Column 2 of the Notes of the "CA" zone

- (y) District Lands Officer had reservation to the proposed deletion as such installation at certain locations was essential for the economic development of Hong Kong or well being of Hong Kong citizens at large. Sufficient control had been accorded as any proposal for such use required planning permission;

To delete paragraph 6 of the Covering Notes regarding temporary uses

- (z) the provision for temporary uses in the covering Notes was considered appropriate to allow for flexibility and to be consistent with other OZPs;

To delete 'Burial Ground' use from Column 2 of the Notes of "GB" zone

- (aa) this was not related to any amendment items. There were existing burial grounds within Pai Mun Shan and the inclusion of 'Burial Ground' in Column 2 was to protect villagers' right while affording sufficient planning control;

To delete "Agricultural Use", 'On-Farm Domestic Structure', 'Picnic Area', 'Public Convenience', 'Public Utility Installation', 'Tent Camping Ground'

and 'Utility Installation for Private Project' uses from Column 2 of the "SSSI" zone

- (bb) this was not related to any amendment items while inclusion of such uses was to allow for flexibility while retaining control for the Board;

To make amendments to planning intention of the "SSSI" zone which did not follow the MSN

- (cc) this was not related to any amendment items. Since DAFC did not support the representers' proposal to rezone Tai Po Kau Headland to "SSSI", amendment to the planning intention was considered not necessary;

Proper conservation for the Historic Building 'Tai Po Lookout'

Proposed amendments to the Notes of the "OU (Historical Building reserved for Cultural and Community Uses)" zone

- (dd) the 'Tai Po Lookout' building was currently subject to a tenancy for private residential use and 'House' was considered as an 'Existing Use' which was always permitted. As such, there was no need to include 'House' as a Column 1 use. On the other hand, the planning intention of the "OU" zone was to preserve, restore and convert the historic building into a local heritage attraction in the long-run with provision of cultural and community facilities for public enjoyment. It would be appropriate to include 'House' as a Column 2 use in the Notes to allow flexibility for the future use of the building;
- (ee) the proposal to delete 'Private Club' from Column 2 use was not supported as it would limit the flexibility of the future uses of the historic building for recreational and social purposes. Sufficient control had been provided as planning permission was required for any proposal for such use;

Proposed amendments to planning intention of the "OU (Historical Building Preserved for Cultural and Community Uses)" zone

- (ff) The 'Tai Po Lookout' was a Government premises on Government land and any demolition/changes to the existing buildings and their immediate surroundings would be scrutinized by relevant Government departments. As stated in paragraph 10 of the ES, prior consultation with the Antiquities and Monuments Office of the Leisure and Cultural Services Department was

required for any development or redevelopment proposals which might affect the heritage site and its immediate environs. To better reflect its heritage value, it was suggested to refine the planning intention of the “OU” zone in the Notes and ES to cover ‘*building(s) of heritage interest on the site*’. The remarks under the Notes was also suggested to be amended such that any demolition of, or any addition, alternation and/or modification to or redevelopment of the existing Tai Po Lookout ‘*building(s) of heritage interest on the site*’ required planning permission;

- (gg) based on the above assessments, PlanD had no objection to amend the Plan to partially meet R12 and 13 by rezoning the inter-tidal pond in the *western* part of the buffer areas of the Tai Po Kau Headland from “RPA” to “CA” and amend the planning intention in the Notes and to add ‘House’ under Column 2 of the “OU (Historical Building Preserved for Cultural and Community Uses)” zone. PlanD also suggested to add the control on pond filling under the notes of the “GB” and “CA” zones. The ES would also be amended accordingly. The remaining parts of the representations were not supported for various reasons as stated in para 6.2 of Paper 8113.

27. The Chairman then invited the representers and their representatives to elaborate their representations in the arranged order.

R1 –Mr. Chan Siu Kuen

28. Mr. Chan Siu Kuen, representative of Environment, Housing and Works Committee of the TPDC, made the following main points:

- (a) whilst there was no objection to the other amendments, the “CA” zoning had affected the rights of indigenous villagers protected under the Basic Law, making future application for burial ground extensions more difficult and complicated;
- (b) a motion against the proposed Amendment A3 was passed by the Environment, Housing and Works Committee of the TPDC and the same objection was raised by TPRC;
- (c) indigenous villagers would need to complete the burial of their deceased

elders quickly. As it would not be possible to secure planning permission under the “CA” zoning within a few days to allow for early burial; it would be in conflict with their established custom and respect to ancestors; and

- (d) the “GB” zoning should not be altered to the detriment of the traditional rights without proper consultation with the locals and the Heung Yee Kuk (HYK).

R4 – Mr. Man Chun Fai

29. Mr. Man Chun Fai of Tai Po Rural Committee made the following main points:

- (a) the “CA” zoning was regarded as a serious infringement to their traditional rights accorded under the Basic Law which was intended to safeguard, amongst others, a burial place for the indigenous villagers. The significance of this custom might not be fully appreciated by outsiders;
- (b) the local villagers, contrary to general thinking, were all along positive in defending the fung shui woodlands and protecting the natural vegetation for the benefit of the whole community;
- (c) there was great reservation on government’s explanation that the control under the “CA” zoning would be similar to that of the “GB” zone. Ceremonial rituals performed during ancestral worships, involving inadvertently cutting weeds, burning sacrificial offerings and paving roads, could be in contravention to the “CA” zoning, as well as attracting possible complaints by some minority groups that such acts endangered the environment;
- (d) while responding to the need for environmental protection from certain groups of the community, the Board should also give due regard to the rights of the local and respect TPDC’s strong views which had the mandate and support of the community; and
- (e) AFCD should explain to HYK and TPRC their proposals on the “CA” zoning.

[Prof. Bernard V.W.F. Lim left the meeting at this point.]

R8 – Mr. Yau Fuk Ping

30. Echoing the views of Mr. Man Chun Fai, Mr. Yau Fuk Ping, representative of indigenous villagers of Cheung Shue Tan Village said that the restrictions and need for planning permission for burial grounds under the “CA” zoning would lead to delay of funeral rituals for indigenous villagers. Ceremonial visits to graves would be hindered and evacuation of human remains would be made difficult. The established rural traditions and ancient culture would be seriously compromised.

R11– Mr. Lee Wing Keung

31. Mr. Lee Wing Keung, representative of indigenous villagers of Tai Po Mei Village, made the following main points:

- (a) there was strong objection to Amendment Item A3 as a consequence of the previous rezoning proposal. As SSSI was not considered acceptable, the need for “CA” zone as a buffer was hence not necessary;
- (b) it was not appropriate to zone Pai Mun Shan as “CA” because there were no significant natural landscape features nor ecological habitats, such as rivers/streams, mangrove, special flora and fauna, worthy of conservation. The presence of native trees alone, which was commonly found in many “GB” zones, could not be regarded as a strong justification for designation as “CA”. Neither were there any unique topographical characteristics that warranted special treatment. AFCD had not provided sufficient information to support their case. In fact, Pai Mun Shan was surrounded by built development, including residential areas, petrol filling station and schools, rendering it not suitable to serve as an environmental buffer;
- (c) as the impact of the “CA” zoning on local villagers, including the changes on procedures and time required for getting permission for burial activities, had not been thoroughly addressed, TPDC and TPRC had grave concerns;
- (d) there was disappointment on the lack of response by DO/TP regarding this issue; and
- (e) since a higher degree of conservation would be accorded under “CA” compared with the “GB” zone and more hurdles would be expected in future,

villagers had cast serious doubts on PlanD's explanation. Instead of hastily pushing through the "CA" zoning as such, more consultation and discussion with the villagers would be required to balance the interests of concerned stakeholders.

R5 – Mr. Kong Mau Kiu

32. Mr. Kong Mau Kiu said he would not make any submission.

R6 – Mr. Wan Man Kit

33. Mr. Wan Man Kit said he would not make any submission.

R7 – Mr. Kong Kap Hing

34. Mr. Kong Kap Hing said he would not make any submission.

R9 – Mr. Lee Wong Shing

35. Mr. Lee Wong Shing said he would not make any submission.

R9 – Mr. Lee Siu Man

36. Mr. Lee Siu Man said he would not make any submission.

R12 and R13 – Mr. Ruy Barretto

37. In response to Mr. Ruy Barretto's question, the Chairman said that all his representation documents were delivered to Members for their information. Mr. Ruy Barretto tabled his presentation material and the 'Guidelines for Selection of Biological SSSIs' published by the Joint Nature Conservation Committee (JNCC 1992) for Members' reference. With the aid of a powerpoint presentation and some photos, Mr. Barretto made the following main points:

General

- (a) whilst the proposed rezoning of the two burial grounds back to "GB" and amendments of the Notes and ES were acceptable, SSSI designation for the Headland and "CA" buffer for the surrounding areas remained the most appropriate zoning. In particular, the SSSI proposal should be considered based on the comprehensive study submitted by R12 on the 'Tai Po Kau

Headland Conservation Study and SSSI Proposal', instead of departmental recommendations alone;

Burial Grounds

- (b) the representers, R12, as well as their family members, were long time local residents with sufficient knowledge of the area and full appreciation of the significance of traditional customs of indigenous villagers. The representers were not aware of the existence of the 3 designated burial grounds in Pai Mun Shan at the time of their s12A rezoning application, otherwise they would certainly have excluded these burial grounds from their rezoning proposal;
- (c) Pai Mun Shan area, being densely wooded and largely undisturbed, provided ecological linkages and buffer for the Headland. For site TP/S20, site inspection photos indicated that the graves were mostly on the lower slopes outside the designated boundary close to Tai Po Road without access except footpath connection. Within site TP/S24, comprising trees at the top and shrubs lower down, no graves were seen. In order to avoid existing landscape/steep slopes and ensure better access and fire safety, the boundaries of TP/S20 and 24 could be resurveyed with a new burial ground close to the road to suit the needs of villagers;

Legal and Management Background

- (d) a holistic approach based on the Ratcliff criteria was legally justified. The judicial review of Sha Lo Tung confirmed that combination of Ratcliff's 10 criteria should be applied. In line with the Smart Gain case, the Board should follow the evidence, guidelines, law and site characteristics in making deliberation. Guidelines should also be followed according to the Capital Rich case. The Shiu Wing case cast a view that technical instruments or scientific methodologies should be followed and their meaning was a question of law for the court to decide; and
- (e) while community based NGOs could manage the conservation needs of the Tai Po Kau Headland and Pai Mun Shan, the development and management arrangement for the Fung Yuen model could also be considered.

38. With the aid of a powerpoint presentation, Dr. Roger Kendrick made the following main points:

- (a) SSSI designation should be based on internationally accepted scientific criteria, including the NCC Guidelines and the 10 Ratcliff principles;
- (b) the 1993 PELB policy document provided only a summary of the NCC methodology. AFCD's methodology formulated on a limited basis rather than the holistic combination approach was relied on by the Board in taking a view on the subject case;
- (c) the PELB document had stated its obligation to meet international standards. As environmental conservation in HK was pursued through conservation zoning under the Town Planning Ordinance under Cap. 131, the Board had the statutory power to implement such standards by adopting international-based scientific guidelines and undertake conservation as a public responsibility. However, given the long-drawn designation process, only 2 out of the 70 sites proposed by HKU and considered by the Advisory Council on the Environment (ACE) in 1999 was recommended for SSSI listing;
- (d) the representation, supported by legal and scientific authority substantiated in the submitted report, had mostly been unchallenged. SSSI designation for Tai Po Kau Headland based on the Ratcliff criteria and approach of holistic combination was fully justified;
- (e) AFCD's approach was not able to secure robust protection, since the SSSI status of the Headland would be rendered unsuitable following the decline of the species of a 'special group'. The lowland coastal forest of the Headland was rare regionally and an important habitat type, thus 'Typicalness' became less relevant as the site was already assessed on the 'Rarity' criteria. The NCC approach enabled species groups and best examples to be applied together using the combination approach;
- (f) in addition to being a rare lowland coastal forest, the Headland possessed special flora and fauna to complement the Tai Po Kau Nature Reserve, with high diversity of birds and moths, including 2 best moth sites and ranking

the third in Hong Kong;

- (g) buffers and corridors should be protected for the ecological process and metapopulation dynamics so as to avoid genetic shift and loss of resistance to diseases through inbreeding caused by isolation
- (h) nature reserves in China were structured into core, buffer and peripheral protection under a progressive zoning hierarchy, i.e. from “SSSI” to “CA” and “GB”. The need for flexibility for future use was not an excuse for rejecting the “CA” zoning. Once the planning intention was ascertained, the most appropriate use should be the test based on the principles and law. The “RPA” zone adjacent to the west of the Headland, considered to be of high landscape value by CTP/UD, should constitute a buffer between the Nature Reserve and the Headland. But the eastern pond in “GB” zone, with stream course from Yau King Lane and presence of mangrove, should also be accorded the “CA” zoning as buffer to the core headland from adjacent developments; and
- (i) zoning should reflect the evidence. “CA” zoning for Pai Mun Shan was supported by AFCD. However, the core Headland, demonstrating ecological values and being an unique coastal lowland forest linking up the Tai Po Kau Nature Reserve and comprising high biodiversity with habitat for moths, should merit a higher conservation status than Pai Mun Shan area and the “CA” zoning.

39. With the aid of some plans and illustration materials, Mr. I.B. Brownlee made the following main points:

- (a) conservation in this area should be based on the 3-tier hierarchy approach, with the core as SSSI, protected by buffer and linkages as “CA” and the periphery as “GB”;
- (b) the eastern pond, with similar mangrove habitat and serving as buffer for the housing development and highway, was supported by scientific assessment submitted by R12 and should also be accorded the “CA” zoning similar to the western pond;

- (c) reversion of the 2 burial grounds to “GB” was agreed. However, the boundaries would need to be redrawn to better tally with the location of graves and site-specific topography so as to avoid areas of dense vegetation, while also allowing room for extension; and
- (d) the provision for temporary use stated in para (6) of the covering Notes of the OZP, with allowance of temporary use up to 5 years, would need to be reviewed and tightened up. A more stringent control was accorded under paragraph 12 of the covering Notes of Lam Tsuen OZP, i.e. some temporary uses were always permitted up to 2 months except for “SSSI” or “CA” zones; temporary use not provided for in terms of the plan was permitted up to 2 years on application subject to temporary open storage and port back-up uses which were prohibited in “SSSI” or “CA” zones, and temporary use in accordance with the terms of the plan was permitted up to 3 years on application.

40. The Chairman concluded that as all representers/commenter and representatives had made their presentations, he invited Members to ask questions.

41. In response to the Chairman’s query on the impact of “CA” zone on burial grounds, Mr. W.K. Hui clarified that PlanD had reviewed the concerned sites taking into account local views and the possible environmental and landscape implications. Similar to the previous “GB” zone, ‘Burial Ground’ was included under Column 2 of the user schedule for “CA” zone. As such, continued use of existing burial ground was allowed while future extension of burial grounds could be considered by way of planning application to the Board for both “GB” and “CA” alike. For “CA” zone, under the covering Notes of the OZP, maintenance or repair of amenity, roads, etc. were always permitted, while local public works and road works co-ordinated or implemented by Government were allowed. Planning application for new road projects would be required for the “CA” zone. There was unlikely to be any major road project in the area. Although “CA” zone would accord a higher degree of conservation and protection, it would unlikely create significant inconvenience for the use as burial grounds.

42. Regarding the issue on burial grounds, Members raised the following questions and comments:

- (a) reasons for the discrepancy of location of graves and burial grounds;

- (b) whether Home Affairs Department (HAD) and DO/TP had been consulted on the planning and location of the 3 burial grounds;
- (c) whether there were any burial grounds within “CA” zoning; and
- (d) whether there would be a sufficient provision of burial grounds for future use.

43. Mr. W.K. Hui and Dr. Kenneth Tang had the following responses:

- (a) majority of the graves located outside the boundary of the burial grounds were old graves in existence for a long time and before the boundary was drawn up;
- (b) the 3 burial grounds were designated by the Home Affairs Department (HAD);
- (c) there was no information at hand regarding whether there were burial grounds included in “CA” zoning; and
- (d) there was still a lot of room in the existing burial grounds for future use while new sites and further expansion could be considered through the planning application system on individual merits.

44. Mr. Yau Fuk Ping clarified that the graves were recognized by the Tai Po Office of the then New Territories Administration years ago. Like the indigenous land of aboriginals in other countries, the villagers’ burial grounds and traditional rights should also be respected. Mr. Man Chun Fai supplemented that new burial grounds were designated after the establishment of the City and NT Administration in 1970’s with a view to accord better control and management after consultation with the villagers while the existing graves, some of which had existed for centuries, were fully acknowledged.

45. In response to the question from a Member regarding the rationale in SSSI designation and the representer’s suggestion, Mr. Patrick Lai made the following responses:

- (a) designation of SSSI should be considered with consistent and established criteria to ensure that new sites selected into the SSSI Register were appropriate without compromising the integrity of the whole system.

Unless there were major issues in the existing system, which was in operation for many years and proven effective, it would not be prudent to revise the criteria for one single case. AFCD had previously processed SSSI recommended by researchers/academics based on territory wide ecological surveys using the same criteria but the subject case was based on a new system with more complex criteria;

- (b) R12 suggested that AFCD's approach, focussed on the species without regard to the habitat, should be replaced by holistic *combination*. Actually such holistic approach was adopted in conserving the species together with their habitats in the current system. Sha Lo Tung was designated due to a diversity of dragonfly populations with the SSSI boundary delineated to conserve the stream courses and adjacent wetland forming the core habitats of the dragonflies and other freshwater and wetland organisms. For Fung Yuen Valley SSSI, the intention was also to protect both the butterflies and the supporting habitats. For R12, to justify the SSSI status based on a holistic combination of wild, natural, cultural and built heritage, scenic beauty, local history, etc, would deviate from the current system in Hong Kong;
- (c) as documented in "The Hong Kong Environment: A green Challenge for the Community" published by the then PELB in 1993, SSSI would be assessed based on its uniqueness, naturalness or rareness in a territory-wide context; scientific value in a territorial or regional context; whether it was representative or typical of its kind. In UK, the 1992 'Guidelines for Selection of Biological SSSIs' published by the JNCC (reissued version of Nature Conservancy Council's 1989 Guidelines) was based on similar criteria defined by Ratcliff (1977), principally naturalness, diversity, typicalness and size, supplemented by provisions for rare species and important assemblages of animals. The current practice in Hong Kong had also made reference to the NCC/JNCC Guidelines. There was currently no strong justification to depart from the established criteria or change to other system for direct application in Hong Kong; and
- (d) moths had not yet been widely studied in the EIA studies conducted in Hong Kong. Comprehensive baseline data and assessment criteria were still

under development and data was being built up with input mainly by Dr. Kendrick who was responsible for the study. As R12's report provided only limited moth data on a territorial-wide context and that the best examples of moth as indicated in report were some other sites rather than Tai Po Kau Headland, the proposal in its present form did not present a strong case for designating Tai Po Kau Headland as a SSSI based on the importance of moth alone. Notwithstanding, subject to further study and sufficient information in a territorial-wide context and the species habitat relationship, there could be possibility of listing a moth site as a SSSI in future.

46. Mr. Ruy Barretto said that it would be better to be consistently right than to be consistently wrong. The Ratcliff principles was scientific-based and SSSI designation of the Tai Po Kau Headland on an approach of holistic combination was fully justified. In addition, the Headland was the last stretch of natural lowland coastal features after the new town development. In addition to diverse woodland, mature lowland forest and habitat for moths, it also served as breeding grounds for egrets and birds, hence should be designated in whole as SSSI. The proposed boundary adjustment and expansion for burial grounds were information for consideration in reviewing the burial grounds. Dr. Roger Kendrick supplemented that the report in the submission constituted comprehensive study providing sufficient justification for the SSSI listing.

47. In response to the Chairman's query on the legal implications of previous cases on technical guidelines, such as the Shiu Wing case, Mr. Patrick Lai said he was not aware that the HKSAR government was legally bound to follow the relevant guidelines quoted by R12 which were documents published overseas.

48. Regarding the inter-tidal pond to the east, Mr. Patrick Lai explained that there was no apparent open waterway linkage between the pond and the Tolo Harbour providing inter-tidal flushing and nutrient dynamics which were characteristics of inter-tidal habitat. There was no established mangrove habitat in the eastern pond with only limited number of mangrove individuals scattered along the shore which was ecologically less significant when compared to the western pond. As such, Mr. Patrick Lai considered that if the western pond was to be rezoned as "CA", the current "GB" zoning was appropriate for the eastern pond.

49. Mr. Ruy Barretto said that the 2 ponds to the east and west of the Headland should not be protected in a piecemeal manner, but both included in "CA" zoning to provide a

comprehensive peripheral buffer for the Headland. There was a channel underneath the highway viaduct linking with the eastern pond. Despite its small population and deep water, the mangrove growing along the edge under less favourable conditions in the eastern pond had also demonstrated its inter-tidal habitat and its ecological significance as a buffer. Mr. Patrick Lai pointed out that given the lack of open waterway bringing inter-tidal flushing and movement, it would be difficult for mangrove to flourish in the eastern pond. With reference to the aerial photo of the representation site, he indicated that the mangrove cluster along the western pond shorelines with open waterway from the Tolo Harbour to the inland were more luxuriant than that of the eastern pond where there was no open waterway.

50. R1, Mr. Chan Siu Kuen, supported R12's proposal to designate the western pond as buffer under the "CA" zone. Regarding the protection for the moth, it was important to realize that the Pai Mun Shan area might also offer opportunity space for the moth. Whilst local villagers were equally interested in conservation, their rights under Basic Law should not be fettered.

51. As Members had no further questions to raise and the representers, commeter and their representatives had no further points to make, the Chairman informed the representers, commeter and their representatives that the presentation and questioning session was duly completed and the Board would deliberate on the representations in their absence and inform the representers of the Board's decision in due course. The Chairman thanked the representers, commenter and their representatives and the Government team representatives for the presentations. They all left the meeting at this point.

Deliberation Session

52. The Chairman said Members should consider the representations in the light of the presentations and the assessment of the representers' proposals.

R1-R11

53. Members were aware of the need for conservation of the Pai Mun Shan area and also generally in support of protection of the traditional rights for burial grounds. They expressed the following views:

- (a) in view of the need for conservation precautionary measure and the need to protect the general topographical setting and inherent landscape value before

possible development impact, the “CA” zoning was considered appropriate for the majority of Pai Mun Shan area while reflecting the traditional rights of local villagers;

- (b) whilst the planning intention for “CA” zoning was for long term conservation, new burial grounds and further expansion could be considered through the planning application system on individual merits;
- (c) the concern on inconvenience for ceremonial activities and accessibility to less accessible burial grounds would need to be addressed;
- (d) there was a need to strike a balance between respecting local traditions and preserving the natural attributes. It would be prudent to respond to the comment of TPDC which represented the concerted views of the local community as a whole including the villagers;
- (e) in respect of the status of existing burial grounds, and given DAFC’s advice and the submissions of villagers, the boundary of the “CA” zone could be refined to exclude all 3 burial grounds, i.e. TP/S19, 20 and 24, for reversion to “GB”;
- (f) the extent of the 3 burial grounds were previously defined by HAD after agreement with the locals. Redrawing the boundaries suggested by R12 would need careful examination by HAD in consultation with the local villagers;
- (g) despite the slightly different level of planning control, the need for planning application for extension to existing burial grounds other than existing ones was applicable to both “CA” and “GB” zones. Regarding inconvenience for ceremonial activities, it was noted that tree cutting was not under the auspices of the Board and not allowed in most zones; and
- (h) it would be useful for departments concerned, i.e. DPO, DAFC and HAD, to communicate with the locals and further explain the planning intention, control on activities and arrangements within the “GB” and “CA” zonings to avoid misunderstanding. Government could also consider ways to improve or regularize roads within the burial grounds for better access.

[Mr. Walter K.L. Chan left the meeting at this point.]

54. The Secretary explained that the implications of rezoning from “GB” to “CA” was detailed in the paper submitted to the RNTPC for proposed amendments of the OZP, while local views was fully taken into account in drafting the notes of “CA” zone and the existing rights of villagers would not be compromised. The Chairman noted that further explanation would be helpful to address the concerns of villagers.

55. The Chairman concluded that there was a consensus to retain the “CA” zoning for the majority of Pai Mun Shan area. On the other hand, the boundary would be refined to exclude all the three burial grounds TP/S19, 20 and 24 for reversion to “GB” zone to partially address the views of villagers and reflect their traditional rights. Whilst noting AFCD’s view that TP/S19 was densely wooded, Members generally observed that it was not much different from the other two burial grounds on the basis of the pictures shown at the meeting. Members agreed with this approach.

56. After further deliberation, the Board agreed to amend the Plan to partially meet the Representations No. 1 to 11 by rezoning three existing burial grounds (TP/S19, TP/S20 and TP/S24) from “CA” to “GB”.

57. The Board did not support the remaining part of the representations for the following reason:

‘the “CA” zoning for the majority area of Pai Mun Shan was considered appropriate to protect and retain the existing natural landscape, ecological or topographical features of the area and to separate sensitive natural environment from the adverse effects of development. There was no strong justification provided in the Representations for a departure from the planning intention of such zoning.’

R12-R13

58. The Chairman reiterated that R12 should be considered in the light of the presentation and the documents submitted including new information provided. Whilst R12 had no comment on PlanD’s responses to the remaining proposed amendments, the two key issues related to R12 were the SSSI designation for the Tai Po Kau Headland and the

proposed “CA” zoning for the eastern pond.

59. Members noted the current system for SSSI designation and the conditions of the eastern pond. They expressed the following views:

- (a) the mangrove along the edge of the eastern pond, albeit limited in extent when compared to the western pond, was an evidence of the existence of a different kind of inter-tidal habitat and reflected its current ecological value, which also deserved to be preserved as a buffer for the Headland;
- (b) the eastern pond was served by a stream flowing from Yau King Lane hence able to screen off the environmental impacts imposed by the adjoining housing developments. The 2 ponds together represented the remaining semi-natural coastlines in Tolo Harbour and provided feeding grounds for egrets and birds, hence the “CA” zoning was considered appropriate;
- (c) there should be a broader interpretation and a more flexible approach as to what constituted inter-tidal setting. Despite the deeper water and small population, the mangrove in the eastern pond should be protected;
- (d) the villagers also lent support to the designation of the eastern pond as “CA” zone;
- (e) consistency should be maintained in the SSSI designation based on established system and AFCD’s technical assessments. It would not be prudent to resort to new criteria for a single proposal in the lack of a comprehensive review and prior to promulgation of a new methodology;
- (f) the new approach in SSSI designation system would involve policy issues that could not be initiated by the Board. Review of the assessment methodology and designation of SSSI for moth should preferably be considered by the ACE; and
- (g) the provision for temporary use in a new town OZP was different from that of a rural OZP, both in terms of enforcement and level of control. Deletion or amendment of the covering Notes to follow the Lam Tsuen OZP which was a rural OZP should be further considered. However there might be

merits in tightening up the covering Notes for provision of temporary use in relevant zones.

60. In respect to item (g), the Secretary explained that provision for temporary use in the new town OZP was not the same as the rural OZP as the former had no enforcement power and development control would be mainly effected through lease conditions and building plans. Given the difference in planning intention and purpose of control, it would not be prudent to delete temporary use from the covering Notes or simply adopt the provisions of the rural OZP as suggested by the R12. As there might be broader implications on other new town OZPs as a whole, the matter should be further considered prior to proposing amendments to the covering Notes of the OZP. This issue would be examined and taken up as a separate issue.

61. Dr. Michael Chiu said that according to the Court of Final Appeal Judgement on the Shiu Wing case, the Technical Memorandum (TM) under the Environmental Impact Assessment Impact (EIA) Ordinance and the EIA Study Briefs (SB) were both technical instrument. On correct interpretation of what the TM and SBs required, it was a question of law for the court if the Director's decision was being judicially reviewed. A Member concurred with such view based on his personal knowledge of the Shiu Wing case.

62. After further deliberation, the Board agreed to amend the Plan to partially meet R12 and 13 by rezoning the inter-tidal pond in the *western* and *eastern* parts of the buffer areas of the Tai Po Kau Headland from "RPA" and "GB" to "CA" zone. The Board agreed to PlanD's suggestion to amend the planning intention and the Remarks in the Notes of the "OU (Historical Building Preserved for Cultural and Community Uses)" zone and to add 'House' under Column 2 of the zone, and to add the control on pond filling under the notes of the "GB" and "CA" zones. The Explanatory Statement would also be amended accordingly to reflect the amendments of the notes.

63. The Board did not support the remaining parts of R12 and R13 to amend the zoning of the Tai Po Kau Headland, the covering Notes, the Notes of the "SSSI", "CA" and "GB" zones and the schedule of uses under the "OU (Historical Building Preserved for Cultural and Community Uses)" zone for the following reasons:

- (a) the "CA" zoning for the Tai Po Kau Headland was considered appropriate and sufficient to reflect the ecological attributes of the area and to provide

protection to the area. There was no strong justification provided in the Representations for designation of the area as “SSSI”;

- (b) the use of ‘On-Farm Domestic Structure’ was considered of very small scale and not incompatible with the planning intention of the broad “CA” zone. The proposed deletion of ‘Burial Ground’ use in the Notes of the “CA” zone might affect the indigenous villagers’ right to apply for new/extension of burial grounds. Sufficient control had been provided for ‘Burial Ground’ and ‘Radar, Telecommunications Electronic Microwave Repeater, Television and/or Radio Transmitter Installation’ uses within the “CA” zone through the planning permission system. There was no strong justification to delete ‘On-Farm Domestic Structure’, ‘Burial Ground’ and ‘Radar, Telecommunications Electronic Microwave Repeater, Television and/or Radio Transmitter Installation’ uses from the Notes of the “CA” zone;
- (c) there was no need to include ‘House’ as a Column 1 use in the Notes of the “OU (Historical Building Preserved for Cultural and Community Uses)” zone to permit the continuation of existing use;
- (d) the proposed deletion of ‘Private Club’ use in the Notes of the “OU (Historical Building Preserved for Cultural and Community Uses)” zone would limit the flexibility of the future use of the historic building for recreational and social purposes. Sufficient control had been provided for such use within the “OU (Historical Building Preserved for Cultural and Community Uses)” zone through the planning permission system. There was no strong justification to delete such use from the Notes of the “OU (Historical Building Preserved for Cultural and Community Uses)” zone; and
- (e) the proposal to amend the notes of “GB” and “SSSI” zones and the planning intention of the “SSSI” zone was considered not related to any amendment items incorporated on the Plan or to the Notes.

Agenda Item 6

[Open Meeting]

Proposed Study Framework for Hong Kong Island East Harbour-front Study
(TPB Paper No. 8114)

[The meeting was conducted in Cantonese.]

64. As the meeting was a half day meeting and limited time was left for the discussion of this item, the Chairman suggested to defer the discussion of this item to the next meeting as this was a paper on general briefing which would not have significant time implication. Members agreed.

Agenda Item 7

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations to
Draft Shek Kip Mei Outline Zoning Plan No. S/K4/22
(TPB Paper No. 8111)

[The meeting was conducted in Cantonese.]

65. The Secretary briefly introduced the Paper. On 6.2.2008, the draft Shek Kip Mei Outline Zoning Plan No. S/K4/22 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). The amendments involve mainly the rezoning of the former Begonia Road Juvenile Home site from “Government, Institution or Community (3)” (“G/IC(3)”) to “Residential (Group C)10” and a slope area east of Tai Hang Tung Estate from “G/IC(3)” to “Residential (Group A)”. During the two-month exhibition period, 5 valid representations were received. On 18.4.2008, the representations were published for 3 weeks and no comment was received.

66. As there were only 5 representations, 1 in support of the amendments and the other 4 were similar in nature, it was considered more efficient for the full Board to hear the representations and comments without resorting to the appointment of a RHC. The hearing could be accommodated in the Board’s regular meeting and a separate hearing session would not be necessary. Consideration of the representations and comments was tentatively scheduled for 27.6.2008.

67. After deliberation, the Board Members agreed to accommodate the hearing in the

Board's regular meeting without resorting to a separate session. The hearing under section s6B of the Ordinance was tentatively scheduled for 27.6.2008.

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations to Draft Ha Tsuen Outline Zoning Plan No. S/YL-HT/9
(TPB Paper No. 8112)

[The meeting was conducted in Cantonese.]

68. The Secretary briefly introduced the Paper. On 25.1.2008, the draft Ha Tsuen Outline Zoning Plan No. S/YL-HT/9 (the Plan), showing mainly zoning amendments to areas on both sides of San Wai Road from "Recreation" ("REC") and "Residential (Group D)" ("R(D)") to "Open Storage" ("OS") and "Open Storage (Group 1)" ("OS(1)"), areas in Sik Kong Wai, Ha Tsuen Shi and San Uk Tsuen from "REC" and "R(D)" to "Green Belt" ("GB") to provide buffer for adjoining villages, and areas along Kong Sham Western Highway and the undisturbed portion of the Tseung Kong Wai Archaeological Site from "REC" to "GB" to reflect the rural character and archaeological significance, was exhibited for public inspection under s5 of the Town Planning Ordinance (the Ordinance).

69. During the two-month exhibition period, 7 representations were received. On 11.4.2008, the representations were published for 3 weeks and no comment was received.

70. As there were 7 representations which were similar in nature, it was considered more efficient for the full Board to hear the representations and comments without resorting to the appointment of a RHC. The hearing could be accommodated in the Board's regular meeting and a separate hearing session would not be necessary. Consideration of the representations and comments was tentatively scheduled for 27.6.2008.

71. After deliberation, the Board Members agreed to accommodate the hearing in the Board's regular meeting without resorting to a separate session. The hearing under section s6B of the Ordinance was tentatively scheduled for 27.6.2008.

Agenda Item 9

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

72. There being no other business, the meeting was closed at 1.30 p.m.