

**Minutes of 1046th Meeting of the
Town Planning Board held on 15.11.2013**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Mr Timothy K.W. Ma

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Roger K.H. Luk

Ms Anita W.T. Ma

Ms Bonnie J.Y. Chan

Professor K.C. Chau

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H. T. Lau

Ms Christina M. Lee

Mr H. F. Leung

Mr Stephen H.B. Yau

Mr F.C. Chan

Deputy Director of Environmental Protection

Mr C.W. Tse

Principal Assistant Secretary for Transport and Housing

Miss Winnie M.W. Wong

Director of Lands

Ms Bernadette H.H. Linn (pm.)

Deputy Director of Lands

Mr Jeff Y.T. Lam (am.)

Director of Planning (Acting)

Miss Ophelia Y.S. Wong

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Professor Edwin H.W. Chan

Mr Rock C.N. Chen

Mr Maurice W.M. Lee

Professor P.P. Ho

Mr Clarence W.C. Leung

Mr Laurence L.J. Li

Dr W.K. Yau

Assistant Director (2), Home Affairs Department

Mr Eric K.S. Hui

In Attendance

Assistant Director of Planning/Board

Ms Brenda K. Y. Au

Chief Town Planner/Town Planning Board

Mr Edward W.M. Lo (am.)

Mr Louis K.H. Kau (pm.)

Senior Town Planner/Town Planning Board

Ms Johanna W.Y. Cheng (am.)

Ms Caroline T.Y. Tang (pm.)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1044th Meeting held on 1.11.2013

[The meeting was conducted in Cantonese.]

1. The minutes of the 1044th Meeting held on 1.11.2013 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

(i) **Approval of Draft Outline Zoning Plan (OZP)**

2. The Secretary reported that on 5.11.2013, the Chief Executive in Council (CE in C) approved the draft Shouson Hill and Repulse Bay OZP No. S/H17/12A, which was renumbered as S/H17/13, under section 9(1)(a) of the Town Planning Ordinance. Approval of the above plan was notified in the Gazette on 15.11.2013.

(ii) **Reference Back of Draft Outline Zoning Plan (OZP)**

3. The Secretary reported that on 5.11.2013, the CE in C referred the approved Kwu Tung North OZP No. S/NE-KTN/8 to the Board for replacement by a new plan under section 12(1)(b)(i) of the Ordinance. The CE in C also referred the following plans to the Board for amendment under section 12(1)(b)(ii) of the Ordinance:

- (a) approved Fanling/Sheung Shui OZP No. S/FSS/18;
- (b) approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/12; and
- (c) approved Hung Lung Hang OZP No. S/NE-HLH/7.

4. The reference back of the above OZPs was notified in the Gazette on 15.11.2013.

Sai Kung and Islands

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the Draft Tai O Fringe Outline Zoning Plan No. S/I-TOF/1
(TPB Paper 9485)

[The meeting was conducted in Cantonese.]

5. Dr C.P. Lau and Dr W.K Yau had declared interests in the item as they were co-opted councillors of Heung Yee Kuk New Territories that had submitted representation No. R44. Both of their interests were direct. Members noted that Dr C.P. Lau had not yet arrived to join the meeting and Dr W.K. Yau had tendered apologies for being unable to attend the meeting.

6. As sufficient notice had been given to the representers and commenters to invite them to attend the meeting, Members agreed to proceed with the hearing of the representations in the absence of the other representers and commenters who had indicated that they would not attend or had made no reply.

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

Mr Ivan Chung	-	District Planning Officer/ Sai Kung and Islands, Planning Department (DPO/SKIs, PlanD)
Mr Kenny Lau	-	Town Planner / Sai Kung and Islands, PlanD
Mr Cary Ho	-	Senior Nature Conservation Officer, Agriculture, Fisheries and Conservation Department (AFCD)
Ms C.Y. Ho	-	Nature Conservation Officer, AFCD

R1 (WWF Hong Kong)

Mr Andrew Chan - Representer's Representative

R2 (Kadoorie Farm and Botanic Garden)

Ms Woo Ming Chuan] Representers' Representatives
Mr Chiu Sein Tuck]

R3 (Association for Tai O Environment and Development)

Ms Ho Pui Han]
Ms Joycelyn Ho Pui Lam]
Mr Tam Chi Kit]
Ms Chan Wing Shan]
Ms Lily Li] Representers' Representatives
Ms Kwong Wai Kuen]
Ms Ann Wong]

R6 (Designing Hong Kong Limited)

Ms Debby Chan - Representers' Representative

R44 (Heung Yee Kuk, New Territories)

Ms Chan Ka Mun, Carmen]
Mr Lau Tak, Francis]
Mr Chan Hon Kwan, Henry] Representers' Representatives
Ms Chan Shui Man]
Mr Edward Choy]

R45 (Tai On Rural Committee)

Mr Lee Chi Fung]
Mr Lou Cheuk Wing] Representers' Representatives
Mr Cheung Chi Wing]

R47 (Lee Chi Fung, Islands District Councillor)

Mr Lee Chi Fung - Representers' Representative

R48 and C5 (Yu Hon Kwan, Islands District Councillor)

Mr Yu Hon Kwan - Representers' Representative and Commenter

R49 (Wong Fuk Kan, Islands District Councillor)

Mr Wong Fuk Kan - Representer

R50 and C27 (So Kwong)

Mr So Kwong - Representer and Commenter
Mr Chan Ngau Chai]
Mr So Ming] Representer's and Commenter's
Ms Lee Lin Hing] Representatives
Mr Cheung Wo Hing]

R51 and C122 (Kan Yip Chung)

Mr Kan Yip Chung - Representer and Commenter

R55 and C52 (Lee Yuen Fai)

Mr Lee Yuen Fai - Representer and Commenter

R60 and C70 (Leung Yip Shun)

Mr Leung Yip Shun - Representer and Commenter

R61 and C78 (Chan Ngau Chai)

Mr Chan Ngau Chai - Representer and Commenter

R64 and C83 (Chan Lai Fun)

Ms Chan Lai Fun - Representer and Commenter

R70 and C100 (Chak Kit Ching)

Ms Chak Kit Ching - Representer and Commenter

R75 (So Chee Chiu)

Mr So Chee Chiu - Representer

C1 (Association for Geoconservation, Hong Kong)

Professor Yim Wai Shu Wyss] Commenter's Representatives
Mr James Shum]

C3 (Cheung Chi Wing)

Mr Cheung Chi Wing - Commenter

C16 (Cheung Chi On)

Mr Cheung Chi On - Commenter

C18 (So Chau Fu, So Wing Sze, So Wing Chiu)

Ms Kwan Hang Yuk - Commenter's Representative

C30 (So Ka Nok)

Mr Wong Shun Chuen - Commenter's Representative

C33 (Wong Wing Leung)

Mr Wong Wing Leung - Commenter

C65 (Leung Tsz Kit)

Mr Leung Tsz Kit - Commenter

C92 (Wan Chi Keung)

Mr Wan Chi Keung - Commenter

C93 (Wan Yeung Shing)

Mr Wan Yeung Shing - Commenter

C104 (Cheng Kwai Hei)

Mr Cheng Kwai Hei - Commenter

C120 (Kan Fat Hing)

Mr Kan Fat Hing - Commenter

C168 (Lee Yee Mei)

Mr Poon Kwok Kin - Commenter's Representative

C170 (Cheuk Mei Lin)

- Mr Siu Fat Kwong - Commenter's Representative
- C211 (Kwok Kwok Ying)
Ms Kwok Shiu Yan - Commenter's Representative
- C235 (Wong Wing Hong)
Mr Wong Wing Hong - Commenter
- C237 (Wong Yung Kan)
Mr Wong Yung Kan - Commenter
- C238 (Wong Loi Mun)
Mr Wong Loi Mun - Commenter
- C242 (Wong Kam Kwong)
Ms Cheung Sze Mei, Amy - Commenter's Representative
- C253 (Yip Pak Hin)
Mr Li Kwai Mo - Commenter's Representative
- C260 (Poon Yin Ming)
Mr Kung Hok Sing - Commenter's Representative
- C275 (So Siu Ying)
Mr Kung Wai Hing - Commenter's Representative
- C277 (So Ka Wai)
Mr Tang Mei Shing - Commenter's Representative
- C278 (So Ka Hor)
Mr Ng Ngau Kam - Commenter's Representative
- C264 (Poon Kam Chuen)
Mr Poon Kam Chuen - Commenter

C279 (So Ka Chun)

Mr Wu Pa Ping - Commenter's Representative

C280 (So Ka Yu)

Mr Thomas Woo Banson - Commenter's Representative

C282 (So Ka Ling)

Mr Wong Siu Wing - Commenter's Representative

8. The Chairman extended a welcome and explained the procedure of the hearing. He then invited the representatives of PlanD to brief Members on the representations. With the aid of a powerpoint presentation, Mr Ivan Chung made the following main points as detailed in the Paper:

Background

(a) on 24.5.2013, the draft Tai O Fringe OZP No. S/I-TOF/1 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the plan exhibition period and publication period of the representations, a total of 77 representations and 359 comments were respectively received;

The Representations

(b) there were 43 supportive representations (R1 to R43) submitted by green groups or concern groups including World Wide Fund for Nature Hong Kong (R1), Kadoorie Farm & Botanic Garden (R2), Association for Tai O Environment and Development (R3), Watch Island (R5) and Designing Hong Kong Limited (R6); 32 individual members of the Wo Liu Hang Concern Group (R12 to R43) in standard format; and six individual members of the public (R4, R7 to R11);

(c) the other 34 adverse representations (R44 to R77) were submitted by

Heung Yee Kuk New Territories (R44), Tai O Rural Committee (TORC) (R45), four Legislative Council members (R46), three individual members of the Islands District Council (IsDC) (R47 to R49) and 28 individual local landowners and residents (R50 to R77). R55 to R77 were in standard format. For R46, the Hon. Tam Yiu Chung, Hon. Lau Wong Fat, Hon. Leung Che Cheung and Hon. Tse Wai Chuen directed the Secretariat of the Legislative Council to refer the concerns and requests of the TORC to the Board for consideration;

Grounds of Supportive Representations

- (d) the main grounds of the supportive representations (R1 to R43) as summarised in paragraph 2.2 of the Paper were:

Conservation and Protection of the Natural Habitats for Wildlife

- (i) the wetland habitats like mangroves and reedbeds had high ecological value and were the habitats for abundant flora and fauna species including some rare species (R1 to R7);
- (ii) the conservation zonings of the Plan including “Coastal Protection Area” (“CPA”), “Conservation Area” (“CA”) and “Green Belt” (“GB”) were effective in preserving the naturalness of the shorelines, protecting the ecologically sensitive areas and preventing illegal dumping (R1 to R6);
- (iii) the natural environment and cultural heritage of Tai O should be protected. Otherwise, the fishing village character would be lost, and that would affect the value of Tai O as an international tourist spot (R3 to R5 and R7 to R43);

Concerns on Insufficient Protection of Hang Mei Stream and the Disused Salt Pans

- (iv) the Government's improvement project at Hang Mei Stream had caused pollution and damage to the ecological environment. Although the project had been stopped in time, it would still take time for natural restoration of the ecological conditions (R3); and
- (v) the "Undetermined" ("U") zone could not reflect the ecological and conservation importance of the area planned for restoring the disused salt pans. Substandard drainage and sewerage connections would contaminate nearby waters and the area zoned "U" (R2 and R6);

Proposals of Supportive Representations

- (e) the main proposals of the supportive representations as summarised in paragraphs 2.4 to 2.9 of the Paper were:

Proposed Conservation Zonings for the Plan

- (i) conservation zonings should be applied to the whole Leung Uk Marsh for protecting the marsh from the imminent threats due to environmental destruction and preserving the land for future wetland restoration (R1);
- (ii) the disused salt pans, zoned "U" on the Plan, should be zoned "CA" to reflect the ecological and conservation importance as there were well-established mangroves inhabited by many different species including a Globally Near Threatened damselfly species, Four-spot Midget. Environmental Impact Assessment should be required for any future project on the site (R1 to R4);
- (iii) Hang Mei Stream should be zoned "CA" to further protect the stream and prevent any disturbance to its natural restoration

process (R1, R2 and R6);

- (iv) Hang Mei freshwater wetland was proposed to be zoned “CA” as the area was the source of freshwater for the brackish marshes in Tai O and the breeding ground for many fish and waterbird species (R3 and R4);

Proposed Amendment to the Notes of “CA” and “CPA” Zones

- (v) any diversion of streams, filling of land/pond or excavation of land within the “CA” and “CPA” zones, even if being coordinated or implemented by the Government, should require permission from the Board, except for emergency cases (R1);

Requirement of Tree Survey and Assessment

- (vi) for the proposed trekking route, between Shek Tsai Po Street and Po Chue Tam, which was located on steep slopes with a secondary forest consisting of mature trees, tree survey and assessment should be carried out by the project proponent to address the potential impacts on the secondary forest (R1);

Responses to Grounds and Proposals of Supportive Representations

- (f) the responses to the grounds and proposals of the supportive representations as summarised in paragraph 5.18 of the paper were:

Hang Mei Stream (R1 to R3 and R6)

- (i) although the stream had been disturbed by de-silting works during the improvement project at Hang Mei Stream in 2012, the control over the works agent had been tightened up and the works including restoration were completed in July 2012 (R3);

- (ii) AFCD advised that Hang Mei Stream was not an ecologically important stream, and there was no information to demonstrate that the stream had conservation or ecological values that would support its designation as a “CA” zone. The riparian areas along the stream had already been zoned “CA” and “GB” and the stream itself was on Government land. Any development threat would be subject to control by relevant government departments (R1, R2 and R6);

Disused Salt Pans (R1 to R4 and R6)

- (iii) the site to the east of Sun Ki Street zoned “U” had been identified as suitable for restoration of disused salt pans in the “Tai O Facelift – Feasibility Study”. The area concerned was subject to the Study on Restoration of Disused Salt Pans in Tai O commissioned by the Civil Engineering and Development Department (CEDD), and the design details of the ‘salt panning demonstration area’ were yet to be finalized and its implementation would be subject to further technical assessments. To ensure that development within the “U” zone would not have adverse impact on the surroundings, all uses or developments within this zone, except those specified in the covering Notes, required permission from the Board;

Other Proposed Conservation Zonings for the Plan (R1, R3 and R4)

Hang Mei Freshwater Wetland

- (iv) the natural river bank of the stream at Hang Mei had already been zoned “CA”. The remaining areas along the stream covered the existing village clusters of San Tsuen zoned “V” and the vegetated knoll to the east of San Tsuen zoned “GB”. The “V” zone at San Tsuen was considered appropriate to reflect the existing village settlement and the need to meet Small

House demand. Apart from the developed area at San Tsuen, AFCD pointed out that the area was mainly a vegetated hillside rather than a freshwater wetland, which had no ecological value to warrant the “CA” zoning. The “GB” zoning for this hillside area was considered appropriate to preserve the existing topography and natural vegetation (R3 and R4);

Leung Uk Marsh

- (v) Leung Uk Marsh should refer to the Tai O Reedbed, most of which had already been zoned “CA” in view of its conservation importance. The adjoining area to the south of the Tai O Reedbed zoned “GB” on the Plan mainly consisted of fallow agricultural land and footpaths. According to AFCD, the “GB” zone was appropriate to serve as a buffer to safeguard the Tai O Reedbed against any undesirable disturbance arising from the village type development nearby;

Proposed Amendment to the Notes of “CA” and “CPA” Zones (R1)

- (vi) it was stated in the Remarks of Notes for both “CA” and “CPA” zones that any diversion of streams, filling of land/pond or excavation of land to effect the uses or developments always permitted under the covering Notes including works coordinated or implemented by the Government required permission from the Board; and

Requirement of Tree Survey and Assessment (R1)

- (vii) the proposed trekking route between Shek Tsai Po Street and Po Chue Tam was one of the improvement works proposed under the “Tai O Facelift – Feasibility Study”. According to CEDD, tree survey and assessment would be carried out as part of the improvement project. If tree felling was required, the project

proponent would need to submit an application to the Lands Department (LandsD) for approval;

Grounds of Adverse Representations

- (g) the main grounds of the adverse representations (R44 to R77) as summarised in paragraph 2.3 of the Paper were:

Opposition to Designating Private Land under Conservation Zonings

- (i) the Board published the Plan without incorporating local views and heeding strong objections. The Plan had severely affected the use and development of private land (R44 to R51). The “CA” and “GB” zonings of private land would lead to depreciation of land value and infringement of private property right. It was unfair that the costs for conserving the environment were borne by the private landowners (R46, R48, R50, R51 and R54);
- (ii) if the Government needed to expropriate private land for conservation, it should obtain the consent of the landowners and provide reasonable compensation (R45 to R48 and R50 to R53);

Insufficient Land for Small House Development

- (iii) the Plan had not reflected the consensus reached by the Government and the Heung Yee Kuk in 1972 regarding the reservation of land for Small House development (R45 to R48). The “Village Type Development” (“V”) zone on the Plan had not taken into account the development needs in the next 20 or 30 years (R48);

Opposition to Taking Away the Burial Right

- (iv) zoning the two burial grounds of the indigenous villagers as

“GB” had deprived the indigenous villagers of their burial right (R46);

Violation of the Basic Law

- (v) the Plan had affected the land title, restricted development potential and contravened Articles 6 and 105 of the Basic Law (R50 and R51);
- (vi) the Plan had constrained the development of Small Houses and the burial activities of the indigenous villagers, and contravened Article 40 of the Basic Law (R50 and R51);

Inadequate Infrastructure Planning for Tai O

- (vii) the Government had not catered for the development need of Tai O as a tourist spot. The “CPA” zone on the Plan affected the coastal road proposed between Tung Chung and Tai O being pursued by TORC for the improvement of tourist infrastructure (R46);
- (viii) Tai O was underdeveloped and infrastructure or facilities serving the locals were lacking. The Government should improve the living conditions and meet the community’s needs (R50 and R51);

Insufficient Public Consultation

- (ix) the opposing views of IsDC, TORC and the landowners on the Plan had not been respected. The Board should listen to the views of the residents with an open mind and should not be biased towards green groups (R44 to R48, R50 and R51). IsDC, TORC and the residents should be consulted on planning of the area and the Plan should only be gazetted with the consent

of these parties (R45 and R47);

- (x) landowners had not been informed of the proposed conservation zonings of the private land. The representation and public consultation mechanism in the planning system was fake consultation, which could not address the compensation issue (R46, R48, R50 to R52 and R55 to R77);

Inadequate Justifications in the Explanatory Statement

- (xi) the Explanatory Statement of the Plan had not provided explanations on the conservation value of the biological species on a scientific basis nor the justification for conservation (R48);
and
- (xii) the assessment of landscape value had not taken into account the local needs, the property values and the landowners' right. The protection of the rural and natural character as well as the preservation of the unique landscape character and cultural heritage should encompass the human and natural aspects. The urban people's perspectives should not be adopted in planning for the rural development (R48);

Proposals of Adverse Representations

- (h) the main proposals of the adverse representations as summarised in paragraphs 2.10 to 2.15 of the Paper were:

Proposed Revocation of the Plan

- (i) the Plan should be shelved or withdrawn if their requests were not acceded to or the compensation issue could not be resolved. The Plan should be amended (R45, R47, R48, R50 to R52 and R55 to R77);

Proposed Amendments to the Conservation Zonings

- (ii) all private land in the “CA” and “GB” zones should be excised from the Plan. Compensation for resumption of land should be made if there was a need for planning (R45, R47, R49 and R52 to R54);
- (iii) some parts of the “GB” zone on the Plan had encroached onto the indigenous village. The area within 300 feet of the outermost boundaries of the existing village should be reserved for Small House development by indigenous villagers (R45 and R47);
- (iv) the two existing burial grounds of the indigenous villagers should be excluded from the “GB” zone in order to reserve land for future burial use (R45 and R47);
- (v) the “CPA” zone between Sun Ki Street and Tai Bei Tsui should be deleted as TORC was striving for the construction of a coastal road between Tung Chung and Tai O (R45 and R47);
and

Allowing Agricultural Use on Private Land

- (vi) private land should be allowed to be maintained for agricultural use (R44);

Responses to Grounds and Proposals of Adverse Representations

- (i) the responses to the grounds and proposals of the adverse representations as summarised in paragraph 5.19 of the paper were:

Opposing the Conservation Zonings (R44 to R54)

- (i) the various land use zones on the Plan were designated in consultation with the government departments concerned having regard to the existing land uses and physical conditions, landscape and ecological interests and infrastructural constraints. Anticipated market values and selling prices of the private land due to land use zonings were not material planning considerations;
- (ii) the private lots covered by the “CA” zones were mainly concentrated in the Tai O Reedbed, the area to the east of Lung Tin Estate, Po Chue Tam and the area to the east of Sun Ki Street:
- the Tai O Reedbed was a recognized habitat of conservation importance, being one of the largest remaining reedbeds in Hong Kong and known to support various fauna of conservation interest. A damselfly of conservation importance (Four-spot Midget) and over thirty other species including birds, dragonflies and butterflies were found;
 - the area to the east of Lung Tin Estate mainly consisted of mangroves and had been identified as the “densest and most homogeneous patch of mangroves at Tai O” in the Tai O Sheltered Boat Anchorage Environmental Impact Assessment Study. Such habitat provided important foraging and roosting sites for many wetland birds and was worth protecting to preserve the ecological integrity of the area; and
 - the patches of woodland in Po Chue Tam and the extensive area comprising abandoned salt pans and fishponds to the east of Sun Ki Street were of

conservation value according to AFCD;

- (iii) the private lots within the “GB” zones were generally scattered within areas covered with natural vegetations, hillslopes and fallow agricultural land. The “GB” zoning was appropriate to preserve the existing topography and natural vegetation;
- (iv) according to the Notes of the Plan, “Agricultural Use (other than Plant Nursery)” and “Agricultural Use” were always permitted within the “CA” and “GB” zones respectively. Both “CA” and “GB” zones would not deprive any landowners of the Old Schedule Agricultural Lots under Block Government Lease of their right for agricultural use;
- (v) the use of any land or building which was in existence immediately before the draft DPA Plan was not affected by the zonings. The use, disposal and inheritance of private property were thus not affected. For redevelopment of a building within the “CA” zone and development of Small House within the “GB” zone, an application might be made to the Board under section 16 of the Ordinance and each case would be considered on its individual merits;
- (vi) the issue of compensation fell outside the purview of the Board;

Land for Small House Development (R45 to R48)

- (vii) in designating the “V” zone, the Board had taken account of the local topography, existing land use, site constraints, the ‘VE’ of the recognized village and the outstanding Small House applications as well as Small House demand;
- (viii) Leung Uk Tsuen was the only recognized village in the Area. According to the District Lands Officer/Islands, LandsD, the

latest outstanding number of Small House applications was 7 and the 10-year Small House demand was 60 as provided by the Indigenous Inhabitant Representative of Leung Uk Tsuen. The existing “V” zones at Leung Uk Tsuen, San Tsuen and Wang Hang covered an area of about 6.57 ha on the Plan of which about 2.18 ha of land (or equivalent to 87 Small House sites) were considered suitable for Small House development. There was therefore sufficient land to meet the Small House demand of the recognized village. There was no strong planning justification to reserve more land beyond the “V” zone for Small House development at this stage as proposed by R45 and R47;

- (ix) application for development of Small House outside the “V” zone might also be made to the Board in accordance with the provisions of the Plan under section 16 of the Ordinance and each case would be considered on its individual merits;

Burial Grounds (R45 to R47)

- (x) the existing permitted burial grounds on the slopes of Fu Shan, Sze Shan and Tsim Fung Shan were within the “GB” zone of the Plan. It was not the Board’s current practice to give a specific zoning for burial grounds which were usually included in the “GB” zone. To respect the villagers’ burial right, the covering Notes of the Plan stated that the provision, maintenance or repair of a grave of an indigenous New Territories villager or a locally based fisherman and his family members for which permission had been obtained from the Government was always permitted in the “GB” zones;
- (xi) paragraph 9.6.2 of the Explanatory Statement specifically stated that “to respect the local ritual and tradition, burial activities within this zone are allowed.” It was therefore not necessary to exclude the existing burial grounds of the indigenous villagers

from the “GB” zone for the purpose of reserving land for future burial use as proposed by R45 and R47;

Violation of the Basic Law (R50 and R51)

- (xii) as advised by the Department of Justice, Articles 6 and 105 of the Basic Law protected private property rights and required compensation for lawful ‘deprivation’ of property. Article 40 of the Basic Law protected the lawful traditional rights and interests of the indigenous inhabitants of the New Territories;
- (xiii) insofar as the rights and interests embodied by the hillside burial policy and the New Territories Small House Policy had already been qualified by the system of OZP before the Basic Law came into force on 1.7.1997, subjecting them to planning controls imposed by the Plan would not be inconsistent with Article 40 of the Basic Law;
- (xiv) the planning controls imposed by the Plan would not involve any formal expropriation of property nor would they leave the land concerned without any meaningful alternative use. As such, they would not constitute ‘deprivation’ of property for the purposes of Articles 6 and 105 requiring payment of compensation;

Infrastructure Planning for Tai O (R45 to R47, R50 and R51)

- (xv) following the recommendations of the Study on Revitalization of Tai O and the Revised Lantau Concept Plan, CEDD had conducted the “Tai O Facelift – Feasibility Study” and formulated a “Tai O Improvement Works Concept Plan”. The improvement works aimed to bring about new or improved elements for sustaining the economy, culture and eco-tourism in Tai O, thereby enhancing the livelihood of residents in the

longer term. These proposals included construction or improvement of footbridges, gardens, jetties, nature/heritage trails, visitor signage, entrance plaza and coach parking area;

- (xvi) the improvement works for Tai O Facelift were being implemented by CEDD in phases. The Phase 1 works had been completed and the remaining improvement works were at detailed design stage;
- (xvii) there were plans for expansion of the existing sewage treatment works and service reservoir by the Drainage Services Department and Water Supplies Department respectively. In this regard, sites were zoned “Other Specified Uses” annotated “Sewage Treatment Works” and “Government, Institution or Community” on the Plan to provide land for expansion of the existing sewage treatment works and service reservoir respectively;
- (xviii) as to the coastal road from Tung Chung to Tai O proposed by TORC, the Transport Department (TD) advised that there was no justification for building a new road between Tung Chung and Tai O considering the overall planning concept of Lantau with its focus on major economic infrastructure and urban development in North Lantau, and nature conservation and environmentally sustainable recreational and visitor uses in other parts of Lantau. TD would closely monitor the traffic conditions of the concerned roads and review as necessary. On the other hand, according to section 13A of the Ordinance, any road works or use authorized under the Roads (Works, Use and Compensation) Ordinance should be deemed to be approved under the Ordinance. In this regard, the current “CPA” zone would not pre-empt any road proposal;

R77)

- (xix) the preparation of the Plan was in accordance with the provisions of the Ordinance which ensured that the public would be duly consulted in the statutory plan-making process. The Board gave preliminary consideration to the Plan on 1.2.2013 and considered it suitable for consultation with IsDC and TORC. IsDC and TORC were duly consulted on 25.2.2013 and 7.3.2013, and a meeting with Tai O residents was also held on 9.4.2013. Comments from IsDC, TORC, together with other comments received, were submitted to the Board for further consideration on 10.5.2013. All the planning and relevant factors including stakeholders' concerns had been considered by the Board prior to the gazetting of the Plan on 24.5.2013;

- (xx) the DPA Plan was formulated based on the previous planning studies for which public consultations had been conducted. Upon expiry of the DPA Plan, the preparation of the Plan to replace the DPA Plan was essential to maintain statutory planning control over the Area. The statutory plan-making process, which involved the exhibition of the Plan for public inspection and the hearing of representations and comments received, was itself a public consultation process under the Ordinance. There were no reason and no provision under the Ordinance to revoke the draft Plan as proposed by R45, R47, R48, R50 to R52 and R55 to R77; and

Inadequate Justifications in the Explanatory Statement (R48)

- (xxi) the Plan had been formulated in consultation with the concerned government departments and on the basis of relevant studies (i.e. the 'Study on Revitalisation of Tai O' completed in 2002, 'Revised Concept Plan for Lantau' published in 2007 and 'Improvement Works for Tai O Facelift – Feasibility Study'

completed in 2009) for which public consultations had been conducted. The Explanatory Statement mainly served to set out the detailed planning intention and objectives of the Board for the various land use zonings of the Plan;

Proposal Not Directly Related to the Plan

- (j) R6 submitted a proposal that was not directly related to the Plan. The proposal was that there should be adequate provisions for safe mooring and berthing of vessels to ensure the safety of the vessels, the convenience of (dis-)embarkation and use, and to protect the area from ‘wild’ moorings;
- (k) PlanD’s response as detailed in paragraph 5.20 of the Paper was that there were existing mooring and berthing facilities for vessels like the Tai O Sheltered Boat Anchorage and public landing piers at Tai O. There were also new/improved jetties in the remaining works of the “Tai O Facelift – Feasibility Study”. R6’s proposal would be relayed to the relevant departments for consideration;

Comments on Representations

- (l) A total of 359 comments had been received as summarised in paragraph 3 of the Paper. In gist:
 - (i) C1 (the Association for Geoconservation, Hong Kong) was related to R3 and C2 (an individual member of the public) was related to R1 to R6. Both comments expressed support for the Plan;
 - (ii) for the remaining 357 comments (C3 to C359), four comments (C3 to C6) were submitted by the representers of R45 (TORC) and R47 to R49 (three individual IsDC members) respectively to reiterate their opposing stance;

- (iii) a total of 110 comments (C27 to C30 (parts), C31 to C136) were submitted in the form of a standard letter echoing the opposing views raised by R50;
- (iv) the other 256 comments (C7 to C26, C28 to C30 (parts), C137 to C359) were not related to specific representation. They opposed the Plan and the conservation zonings in general;

Grounds of Comments and Responses

- (v) C1 and C2's support for the Plan and the conservation zonings was noted;
- (vi) C3 to C6, who were the representers of R45, R47 to R49, reiterated their opposing views and grounds. The remaining comments covered grounds and proposals similar to those of the adverse representations (R44 to R77). The responses to C3 to C359 were similar to the responses to the adverse representations highlighted above and detailed in paragraph 5.19 of the Paper; and

PlanD's Views

- (m) based on the planning considerations and assessments in paragraph 5 of the Paper as summarised above:

Supportive Representations

- (i) the support of R1 to R4 (parts), R5, R6 (part) and R7 to R43 was noted;
- (ii) the proposals of R1 to R4 (parts) and R6 (part) were not supported for reasons given in paragraph 7.1 of the Paper as

summarised above;

Adverse Representations

- (iii) R44 to R77 were not supported for the reasons given in paragraph 7.2 of the Paper as summarised above; and

Proposal Not Related to the Plan

- (iv) R6 to be informed of the response to his proposal given in paragraph 7.3 of the Paper as summarised above and that his proposal would be relayed to the relevant departments for consideration.

9. The Chairman then invited the representers, commenters and their representatives to elaborate on their representations and comments. Members noted the document tabled by R44 and a letter tabled by some villagers of Tai O (with no reference to any particular representation).

R1 – WWF Hong Kong

10. Mr Andrew Chan made the following main points:

- (a) they supported the “CA” zonings on the Plan as they covered the wetland habitats of ecological importance, including the Tai O Reedbed, mangrove replanting area as well as mangroves near San Uk Tsuen. The “CA” zoning was appropriate to protect the ecologically sensitive areas from large-scale developments;
- (b) they also supported zoning the natural coastline in northern Tai O as “CPA” as it preserved the naturalness of the shoreline. It would also restrict any development that might affect the water quality in that area, which was the habitat of the Chinese white dolphin that was already under threat from the Hong Kong-Zhuhai-Macao Bridge project;

- (c) regarding the disused salt pan near Po Chue Tam under the “U” zoning, they considered that it was worth demonstrating to the public the history of salt industry in Tai O. However, there was concern that the restoration project might involve clearance of well-established mangroves in that area and would cause adverse ecological impacts. The area was proposed to be rezoned from “U” to “CA” so that the project proponent would be required to conduct an environmental impact assessment for the project;
- (d) a government project undertaken in 2012 had caused pollution to Hang Mei Stream. DPO/SKIs had indicated that public works co-ordinated or implemented by Government required planning permission under the “CA” and “CPA” zones. However, it was stated in the covering Notes that public works co-ordinated or implemented by Government were always permitted in the “CA” and “CPA” zones; and
- (e) the proposed trekking route between Shek Tsai Po and Po Chue Tam was located on steep slopes with secondary forest. The project proponent should be required to undertake tree survey and assessment to demonstrate the landscape impact of the project.

R2 – Kadoorie Farm and Botanic Garden

11. Ms Woo Ming Chuan made the following main points:

- (a) they supported the “GB” and “CA” zonings on the Plan as they could provide protection for the mangrove, reedbed and wetland habitats;
- (b) Hang Mei Stream was a natural stream course and the riparian areas, that were zoned “GB” and “CA”, were grown with mangroves. Although AFCD indicated that the stream was not an Ecologically Important Stream, any pollution on the stream course (such as the incident in May 2012) would have direct impact on the riparian areas as

well as other estuary areas in Tai O. Rezoning the stream to “GB” or “CA” would provide better protection;

- (c) the wetland to the east of Sun Ki Street was an ecologically important wetland where the *Hemigobius hoevenii* (斜紋半蝦虎魚) and *Occidozyga lima* (尖舌浮蛙) had been recorded. An area in that wetland was zoned “U” for the ‘salt panning demonstration area’. However, the area zoned “U” was grown with mangroves and was a wetland habitat of ecological value to various species of flora and fauna including the Four-spot Midget damselfly; and
- (d) the area should be rezoned from “U” to “CA” to reflect the current ecological value of the land as well as provide appropriate protection for the wetland habitat. When details of the ‘salt panning demonstration area’ were available, the land use zoning could be reviewed.

R3 – Association of Tai O Environment and Development

12. Ms Ho Pui Han made the following main points:

- (a) their submission was co-signed by 16 organisations (namely, Islands Monitor, Lantau Buffalo Association, Tuen Mun Infrastructure Civic Monitor, Conservancy Association, Association for Geoconservation Hong Kong, Living Islands Movement, Environment Conservation & Education Association, Greeners Action, Green Peng Chau Association, Kap Lung Village Environmental Concern Group, Hong Kong Bird Watching Society, Living Lamma, Mong Tung Wan Villagers, Range Educational Centre Cheung Chau, Cheung Chau Recycling Society) and some individuals;
- (b) they supported zoning the wetland areas in Tai O as “GB” and “CA”. The ecological value and diversity of Tai O had been confirmed by experts from the University of Hong Kong;

- (c) in 2000, the Government carried out the ‘Study on Revitalisation of Tai O’ and proposed some improvement projects for Tai O. The mangrove replanting area and the embankment for the fishing boat shelter had been completed. However, the other conservation projects were put on hold;
- (d) the Tai O Reedbed, where *Occidozyga lima* (尖舌浮蛙) and Four-spot Midget had been found, was of ecological importance. However, in 2009, there was illegal tipping in about one-tenth of the reedbed. It was doubtful whether it was appropriate to rehabilitate the reedbed area for farming as the area had been left unfarmed for many years and important ecological habitat had established therein;
- (e) there was an urgent need to devise a comprehensive development plan to ensure that Tai O would not be developed in a haphazard manner. This would protect the ecological habitats in Tai O and ensure that the place would continue to be a tourist attraction. Tourists and visitors had brought a lot of economic benefits to the local villagers;
- (f) the environment of Tai O was very fragile and comprehensive planning was needed. Some areas of Tai O were near or below sea level and there was frequent flooding. There was evidence that the sea level near Tai O was rising and Tai O might become flooded at the end of the decade. A house in Shek Tsai Po had become slanted because the land was subsiding;
- (g) the Government’s previous improvement project at Hang Mei Stream had caused pollution and damage to the ecological environment of the stream. Hang Mei Stream was proposed to be zoned “CA” to provide better protection as it was the source of freshwater for the brackish marshes in Tai O; and
- (h) the area zoned “U” and intended for ‘salt panning demonstration area’

was proposed to be rezoned to “CA” to reflect the ecological value of the mangroves therein. She doubted whether the ‘salt panning demonstration area’ should be taken forward as the existing wetland habitat would be destroyed and it might affect the water level and salinity of the surrounding wetland, including Po Chue Tam in its vicinity, which was an important foraging and roosting ground for egrets. Since there was no detail about the ‘salt panning demonstration area’ at this stage, the area should not be zoned “U”.

13. Ms Ho Pui Lam, representative of the Hong Kong Bird Watching Society which co-signed the representation, made the following main points:

- (a) they supported the Plan;
- (b) the wetland, mangrove and reedbed in Tai O were important foraging and roosting ground for many species of birds, including migratory birds, raptors and wetland birds; and
- (c) they urged for protection of the natural wetland and the natural coastline in Tai O. A lot of natural wetland in northern Lantau had been already been destroyed by developments.

R6 – Designing Hong Kong Limited

14. Ms Debby Chan made the following main points:

- (a) they generally supported the Plan as most of the ecologically important areas had been zoned “CA” or “GB”. This was in line with government’s strategy to revitalise Tai O with emphasis on nature conservation and culture;
- (b) Hang Mei Stream should be protected with conservation zoning as it was an important source of fresh water for other wetland areas in Tai O;

- (c) there was existing sewerage problem in Tai O and the sewerage improvement project would only commence in 2015. If more village houses were allowed to be built prior to the sewerage improvement project, there would be negative impacts on the areas zoned “CA” and “GB”; and
- (d) some boats were being moored in mangroves and wetland areas. The Government should ensure adequate provision of mooring and berthing facilities in Tai O to avoid damage to the mangroves and wetland areas.

R44 – Heung Yee Kuk

15. With the aid of some photos and plans, Ms Carmen Chan Ka Mun made the following main points:

- (a) Heung Yee Kuk had several meetings with TORC and the villagers, and their main concerns and proposed amendments to the Plan would be highlighted for Member’s consideration;

Tai O Reedbed

- (b) the Tai O Reedbed located to the north of Leung Uk Tsuen was zoned “CA” and “GB”. As shown on an aerial photo taken in 1963, the reedbed area was previously farmland. It was overgrown with reeds only after the embankment and its valves were damaged. The Government did not repair the embankment and valves. As the embankment was on government land, the villagers had no right to repair it. The situation was worsened when the Government filled up the land to its north for building Lung Ting Estate and caused more sea water to spill into the villagers’ farmland. As a result, the land was left unfarmed for many years and it became overgrown into a reedbed. The Government should not just rezone the land due to its high ecological value and let the villagers bear the cost for its conservation. The villagers’ private property right was protected by the Basic Law;

- (c) as shown on an index plan of land lots, the reedbed area comprised mostly private land of many villagers. If the area was rezoned “AGR” and the embankment was repaired, it could be used for farming again. TORC and the villagers had requested the Government to fix the embankment. The villagers intended to allow the Buddhist Fat Ho Memorial College to implement an agriculture rehabilitation project there;
- (d) it was understood that compensation was not within the purview of the Board. However, the Board should take a balanced view between conservation and development. Since the reedbed area was mostly on private land and the Government was not going to resume the land, villages could undertake agricultural activities and there was no way to guarantee that the reedbed could be sustained in the long term;
- (e) the landowners only wished to revert their land as farmland and to retire in the village. Their proposal was to rezone the northern portion of the “CA” zone as “AGR” and the south-western and south-eastern parts of the “CA” zone and the area zoned “GB” to the north of Leung Yuk Tsuen as “V”. A larger “V” zone would make available more land to meet the forecast Small House demand;
- (f) the area proposed to be rezoned to “V” was within the ‘VE’ of Leung Uk Tsuen. This was in line with the Government’s agreement in 1972 to allow Small House development within the ‘VE’ that was drawn up within 300 feet from the village settlement. As shown on some site photos, the area proposed to be rezoned “V” was mainly concrete paved and not vegetated areas. In addition, according to PlanD, the “GB” zone was originally intended to be a buffer between the “CA” and Leung Uk Tsuen. If the area in the north was rezoned “AGR” according to their proposal, there was no longer the need for a buffer area;

Burial Grounds

- (g) villagers raised concerns that zoning the existing burial grounds as “GB” would deprive them of their burial right. The response in the Paper that under the covering Notes of the Plan, the provision, maintenance or repair of a grave by indigenous New Territories villager or locally based fisherman and his family members for which permission had been obtained from the Government was always permitted in the “GB” zone was noted;
- (h) nevertheless, the boundaries of the cemeteries managed by the Food and Environmental Hygiene Department were delineated on other statutory plans. Hence, the boundaries of the burial grounds should similarly be delineated on the Plan. The proposed boundaries of the two burial grounds at Fu Shan and south of Leung Uk Tsuen were shown. They were slightly larger than the existing burial grounds, and about 70% to 80% of the delineated area had already been used for burial purpose;
- (i) the covering Notes should also be revised to clearly state that the provision, maintenance or repair of a grave in “GB” zones would always be permitted ‘forever’;

Coastal Road from Tung Chung to Tai O

- (j) a coastal road from Tung Chung to Tai O was being pursued by TORC. However, the northern coastal area was zoned “CPA”. It was understood that the Government currently had no plan to build the coastal road, but the Transport Department would closely monitor the traffic conditions and would review as necessary. To alleviate the villagers’ concern, the responses in the Paper that the “CPA” zone would not pre-empt any gazetted road works might be included in the Explanatory Statement; and

Area at Wang Hang

- (k) a plan indicating an area in Wang Hang proposed to be rezoned from “GB” to “AGR” to reflect its existing use was also shown.

16. With the aid of some photos, Mr Lau Tak highlighted the main points as detailed in the document tabled by R44:

- (a) they did not oppose to the whole Plan, and their main opposition was against the “CA” and “GB” zonings covering the Tai O Reedbed. Agricultural use was an always permitted use in these two zones. However, it was indicated in the Remarks that permission was required for any filling of land/pond or excavation of land. Hence, the “CA” and “GB” zonings had deprived the landowners of their right to agricultural use on their agricultural lots;
- (b) the reedbed area was very important to the villagers as it was relatively flat and was located immediately north of Leung Uk Tsuen. As shown on an aerial photo taken in 1963, the reedbed area used to be farmland and the areas to its north and west were salt pans. There was no reedbed in the area at that time. In 1993, the Government filled the salt pan to the north and caused seawater to spill over and flood the farmland of the villagers. The villagers could not continue to farm as the soil was salinised and the embankment could not be fixed as it was on government land;
- (c) the Tai O Reedbed was not a natural habitat, and it was a result of damage caused by the government projects. The Board should not insist on zoning the private land in the reedbed area as “CA” and “GB” as this was against the landowners’ intention and there was no guarantee that the reedbed would be sustained in future; and
- (d) the proposal mentioned by Ms Carmen Chan Ka Mun in her presentation was reiterated. In particular, the northern portion of the

“CA” zone was proposed to be rezoned as “AGR” and the south-western and south-eastern parts of the “CA” zone and the area zoned “GB” to the north of Leung Yuk Tsuen were proposed to be rezoned as “V”. This was in line with the Government’s agreement in 1972 to allow Small House development within a ‘VE’ drawn up within 300 feet from the village settlement.

17. Mr Henry Chan Hon Kwan said that they understood that the Board had no right to consider compensation for negative effects on land value caused by planning decisions. However, the Board could consider alternative land use zonings, such as the “V” and “AGR” zones proposed, that were more acceptable to the villagers than the “CA” and “GB” zones.

R45 – Tai O Rural Committee

R47 – Lee Chi Fung

18. With the aid of some plans, Mr Lee Chi Fung, Chairman of TORC and a member of IsDC, made the following main points:

- (a) TORC objected to zoning private land as “GB” or “CA”. At the IsDC meeting, 20 out of the 21 members attending opposed the Plan and one abstained. At the TORC meeting held on 7.3.2013, members unanimously opposed the Plan. However, the Board did not heed to their strong opposition, and they proposed that all private land in the “CA” and “GB” zones should be excised from the Plan;
- (b) Tai O was once a very vibrant place for salt industry. The mangrove planting area and the Lung Tin Estate site were once salt pans. The mangrove planting area was subsequently used as a fish farm, but the embankment and its valves were destroyed in a typhoon and sea water flooded the area. The building of Lung Tin Estate involved raising the site level by land filling, which had worsened the flooding of farmland in the reedbed area;

- (c) the reedbed area was continuously flooded because the embankment was damaged. The villagers could not fix the embankment as it was on government land. They had repeatedly requested the Government to fix the embankment and its valves but no action had been taken. Otherwise, the reedbed area could be used as farmland and the Buddhist Fat Ho Memorial School would undertake an agricultural rehabilitation project there;
- (d) with the aid of a plan, he said that in the 1990's, TORC proposed a coastal road from Tung Chung to Tai O along the northern coast of Tai O, which was now zoned "CPA". At that time, the Transport Department considered that there was insufficient demand for building a new road. The situation had changed with the revitalisation of Tai O in the past few years. According to data from the bus companies, there was an annual patronage of some three million people to Tai O. If those people visiting Tai O via coaches, ferries, hiking and cable car were included, there would be some four million visitors every year. Hence, there was a need for the coastal road. If the "CPA" could not be rezoned, it should be clearly stated in the Plan that the "CPA" would not affect construction of the road in future;
- (e) as suggested by R44, the existing burial grounds for indigenous villagers and locally based fishermen should be delineated on the Plan and zoned as burial grounds rather than covered by "GB" zoning. This would be similar to the zoning for cemeteries managed by the Food and Environmental Hygiene Department on other statutory plans;
- (f) there should be sufficient land within the "V" zone for satisfying the forecast Small House demand. Some areas at Leung Uk Tsuen, San Tsuen and Wang Hang were not suitable for development as they were on steep slopes prone to landslide; and
- (g) contrary to R3's view, the stream improvement project was necessary as it was for replacement of the old bridge at Wang Hang that was

damaged during a typhoon.

19. Mr Lou Cheuk Wing, Vice-chairman of TORC, made the following main points:

- (a) TORC did not oppose the whole Plan but only opposed zoning private land as “CA”. They proposed that all private land should be excised from the Plan;
- (b) Tai O was already a very natural place with lots of greenery and good air quality. The villagers were already conserving the environment and there was no need for additional planning control. The representers who supported the Plan were not residents in Tai O. Their proposals for more conservation was at the expense of the Tai O people;
- (c) the planning controls being proposed affected the villagers’ property rights. Although the Board had no right to offer compensation, PlanD should have liaised with other relevant government departments regarding the compensation issue before gazetting the Plan. The Government needed to change the bureaucratic manner in making decisions as their decisions affected the rights of residents, including their private property rights and their rights to build Small Houses, for burials and for more convenient road access;
- (d) there was a definite need for the coastal road, which had been pursued by TORC for more than 20 years. Currently, visitors mainly travelled to Tai O by bus. A round-trip via Tung Chung Road took about two hours and there was long waiting time for bus service. With the proposed coastal road, the travelling time could be greatly reduced and it would enhance the attraction of Tai O as a tourist destination;
- (e) the previous tipping at the Tai O Reedbed was undertaken by a person who was not the landowner but the landowner was fined. That was

unfair; and

- (f) the farmland was left vacant as the Tai O Reedbed area was flooded as a result of government's neglect and failure to repair the embankment and its valves.

[Ms Christina M. Lee left the meeting temporarily and Mr Jeff Y.T. Lam left the meeting at this point.]

R48 and C5 - Yu Hon Kwan

20. Mr Yu Hon Kwan made the following main points:

- (a) the Board neglected the private property rights of the villagers. Despite the response provided in the Paper, it should be noted that Article 105 of the Basic Law indicated that compensation should be paid to affected landowners if the land title and development potential of the private land were affected;
- (b) it was understood that the Board had no right to consider payment of compensation. However, the Board could give more consideration to the grievance and hardship inflicted on villagers upon zoning their private land for conservation purpose;
- (c) they were not opposing the whole plan, for example, they had no objection to the "CA" zone near Wang Hang. In fact, they were not able to identify the subject landowners and were not in a position to speak for them. They also did not oppose zoning government land at Wang Hang as "U";
- (d) the mangrove replanting area to the west of Leung Uk Tsuen an off-site compensation for mangroves cleared for building the airport. Given that Tai O residents had already borne the responsibility for the territorial project, the Government should not rezone more of their

private land for conservation;

- (e) the Government should allow them to farm in the reedbed area which only accounted for some 20% of “CA” zones in Tai O or some 5% of all areas zoned “CA” and “GB”. They were disappointed that the Government refused to heed to their request despite strong opposition from both IsDC and TORC;
- (f) in the 1960’s to 1970’s, there were some 30,000 population in Tai O. However, the current population had dropped to some 2,600. The Government had neglected economic development in Tai O and the younger generation had to leave Tai O for a living. Hence, about 45% of the existing population was over 65 years old. The Tai O community was reducing in size every year and it was necessary to ensure sustainable development of the place;
- (g) they opposed conservation zonings of their private land. The Tai O Reedbed area was not a natural habitat. It was a result of damage caused due to failure to repair the embankment as explained by the earlier representers;
- (h) R3 was an ‘outsider’ and she would not understand the situation in Tai O. Contrary to their view, the stilted houses were very stable and there was no structural problem. Their proposals were not agreeable to the Tai O residents; and
- (i) for sustainable development of Tai O, other than conservation, the social and economic needs of the residents also had to be given due consideration.

[Ms Christina M. Lee returned to join the meeting and Mr Wilton W.T. Fok left the meeting at this point.]

21. Mr Wong Fuk Kan made the following main points:

- (a) he was a Tai O resident and a member of IsDC;
- (b) paragraphs 9(a) and 9(b) of the covering Notes were conflicting. The uses that were always permitted within “CA” and “CPA” zone were listed in paragraph 9(a) but some of those uses were again indicated in paragraph 9(b) as uses requiring planning permission;
- (c) a list of events and meetings held about the Plan was highlighted for Members’ reference. On 25.2.2013, the Plan was considered at IsDC; on 14.3.2013, a meeting was held between Tai O residents and PlanD; on 4.4.2013, the landowners initiated a signature campaign; on 9.4.2013, TORC organised a residents’ meeting that was attended by some 300 residents; on 19.5.2013, an agricultural rehabilitation event was held at Leung Uk Tsuen; on 31.5.2013, TORC and the landowners petitioned to the Legislative Council; on 20.6.2013, Heung Yee Kuk considered the Plan; on 30.6.2013, landowners of Tai O held a meeting; on 10.7.2013, the landowners of Tai O petitioned to the Chief Executive and submitted 5,000 signatures collected at the signature campaign opposing the Plan; and on 18.7.2013, they held a rally in Central;
- (d) they supported the views presented by Heung Yee Kuk and TORC at the hearing. While they supported zoning government land for greening purpose, private land should be excluded from all zonings for greening purpose. Zoning private land as “GB” would seriously affect the land value and the Board should make a decision that would respect the views of the villagers.

R50 and C27 – So Kwong

R61 and C78 – Chan Ngau Chai

22. Mr So Kwong made the following main points:
- (a) their ancestors had lived in Tai O for many generations and he had lived there for sixty years. Some land which he owned in Wang Hang was zoned “GB”. The land was either used for growing fruit trees or were old house lots. Given the existing agricultural use on the land, he did not understand why his land was zoned “GB”;
 - (b) there was no development in Wang Hang in the past 60 years. Having regard to the overall benefit of Tai O, his father had allowed the Government to resume some of their land for building Tai O Road. The Government should not rezone more of their land as “GB”;
 - (c) they bought their land with their own money and it was unfair that the Plan had introduced land use zonings that would seriously reduce the value of their land. He wished to build a house either to live in or for renting out to support his living after retirement. He had applied to DLO for rebuilding a house on his land. However, he was worried that the “GB” zoning would affect his application and he requested DPO/SKIs to clarify in that regard;
 - (d) he did not agree with the part of the representation of R3 regarding Hang Mei Stream. Hang Mei Stream needed to be dredged on a regular basis to avoid narrowing of the stream course and water upsurge during storms. The old bridge at Wang Hang was washed up by the water during a typhoon;
 - (e) it was indicated in the Paper that the Plan had not contravened the Basic Law as it did not involve formal expropriation of property nor would it leave the land concerned without any meaningful alternative use. In this regard, he asked whether he would be allowed to rebuild a house

and/or retain a car parking space in his old house lot. He also asked whether he could continue with agricultural use and retain the storage shed for storing agricultural equipment on his agricultural lots; and

- (f) it was unreasonable that they had not been consulted before their land was rezoned for uses which they did not agree with. They had contact address and the authority should have sent letters to inform them about the Plan.

23. Mr Chan Ngau Chai showed some old pictures of the previous farmland in Leung Uk Tsuen. It was pathetic that they could not protect their ancestors' land. The wetland with mangroves had become breeding ground for mosquitoes and villagers could not stay outdoor for too long during summer.

R51 and C122 – Kan Yip Chung

24. With the aid of a photo and an index plan of land lots, Mr Kan Yip Chung made the following main points:

- (a) he was an indigenous villager who lived in Tai O. His parents had been farming the land at Leung Uk for a long time and they had relied on the land to make a living in the past;
- (b) they were no longer able to farm in Leung Uk after the embankment was damaged in Typhoon Wanda, as the Government did not repair the embankment and there was frequent flooding;
- (c) his mother was 90 years old, she had sleepless nights when he told her that the Government had changed the zoning of their land and they could no longer farm there; and
- (d) the Government should respect their private property rights. The Government should better understand the hardship being borne by the landowners and indigenous villagers.

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

R55 and C52 – Lee Yuen Fai

25. Mr Lee Yuen Fai made the following main points:

- (a) he was an indigenous villager of Wang Hang. His ancestors had lived there for more than 300 years;
- (b) it was unreasonable for the Government to zone their land for conservation purpose. The value of their land was significantly diminished after the Government zoned it as “GB”;
- (c) no application for Small House development at Wang Hang had ever been approved. His father had tried to apply for building a Small House some 30 years ago and the Government said there was no land available at Wang Hang. However, he understood that there was some government land that was zoned “V” near Wah Kwong Temple. If the Government was not going to allow them to build Small House on their land, he asked the Government to guarantee that their cross-village application for building Small House on land owned by his cousin (Mr So Kwong (R50 and C27)) would be approved; and
- (d) the Government did not conduct a proper consultation on the Plan as they had contact addresses but were not being informed individually. There were more than 500,000 people related to Tai O in one way or another in Hong Kong, and all of them would not support the Plan. The green groups supported the Plan without good reasons.

R60 and C70 – Leung Yip Shun

26. Mr Leung Yip Shun made the following main points:

- (a) he was a resident in Hang Mei and owned some land there. He had some land near Keung Shan which was previously rezoned by the Government and he was not informed about it. He was very angry that his land in Hang Mei was now further rezoned and its value significantly diminished;
- (b) the Government should respect their private property rights as the land which they owned was bought by their ancestors after enduring lots of hardship. The Government should care for the people of Tai O first rather than protecting the animals mentioned by the green groups;
- (c) the Plan had created chaos in Tai O and no villager agreed with the Plan. The Government did not conduct a proper consultation on the Plan as they had contact addresses but had not been informed individually; and
- (d) the Board should exclude their private land from the Plan.

R64 and C83 – Chan Lai Fun

27. Ms Chan Lai Fun made the following main points:

- (a) she owned some land in Leung Uk. The land was her private property and the Board should not zone it for conservation purpose;
- (b) previously some other persons had tipped fills on her land, but the Planning Authority fined her. She was never informed that her land had been zoned for conservation purpose; and
- (c) the Board should change the zoning of their land so that they could continue to farm on it. Even though she might be too old to farm, the land could be rented out to others to support her living.

R75 – So Chee Chiu

28. Mr So Chee Chiu made the following main points:

- (a) the green groups had created a lot of conflicts but they did not stay at the meeting to listen to their presentations. Only the residents and villagers really cared for Tai O, not the green groups;
- (b) the Government said that rezoning their land for conservation or greening purposes would not affect their land ownership or land value. On similar reasoning, he asked whether the Government could force people to rent out their flats to those in need to resolve the housing problem. The Board should be sympathetic to the feelings of the landowners. Their land was their private property and their parents worked very hard to save the money for buying the land;
- (c) the Government had carried out a lot of infrastructural projects that had affected Tai O but they had not been compensated. The Shek Pik Reservoir had affected the flow of water from Keung Shan to Hang Mei and the farmland there had to be abandoned as there was insufficient water source. The rubbles from building of Tai O Road were dumped into Hang Mei Stream and caused the stream to become narrow, shallow and silted. Tai O had also shouldered the responsibility of providing some 20 ha of mangrove replanting area to compensate for mangroves affected by the Chek Lap Kok Airport development. The mangrove area was a mosquito breeding ground and had caused hygiene problems, and the residents could not stay outdoors;
- (d) there were some 50,000 population (40,000 resident population and 10,000 transient population) in Tai O some 50 to 60 years ago. Tai O was very vibrant at that time. However, there were only 2,600 population now (i.e. some 5% of the previous population). If the Tai O population was to reduce at the same rate, there would only be some 150 population in 20 to 30 years' time;

- (e) the Government often used the low population in Tai O as an excuse to reject their requests for additional community facilities, including clinic, hospital, library and sports centre. There was little employment opportunity in Tai O. The Board even rejected their proposal for a self-financed swimming pool on a site adjacent to the Buddhist Fat Ho Memorial College. Many residents were old and unable to travel to Cheung Chau to use the community facilities there;
- (f) the Government should be more transparent and genuine in its consultation. Despite the objections of IsDC and TORC, the Board still published the Plan. The landowners were not individually informed that their land had been rezoned for conservation and greening purposes. In the old days, the Government was more receptive to their comments and would not impose planning controls on their land;
- (g) to oppose the Plan, he had to attend meetings with different departments and lawyers, organise petition and signature campaigns amidst his very busy work schedule. As he had spent too much time doing that, it had affected relationship with his family; and
- (h) the slanted house in Shek Tsai Po was not due to the settlement of the ground level. If so, more houses at that location should have become slanted. The house was just not built on good foundation.

C1 – Association for Geoconservation, Hong Kong

29. With the aid of a powerpoint presentation, Professor Yim Wai Shu Wyss made the following main points:

- (a) many stretches of natural coastline in northern Lantau had been destroyed by infrastructure projects. The natural coastline in northern Tai O, from the seawall at Po Chu Tam to near Sham Wat, had high educational, scientific and cultural value from geological perspective.

The deposits and bedrock were exposed along the coastline. Many local and international experts and geology students had conducted frequent field excursions to study the geology there;

- (b) the geology in that stretch of natural coastline provided valuable historic information, which was supported by discoveries from drilling in Tai O Bay and along Hang Mei Stream. This stretch of coastline provided geological information about four out of the five marine and terrestrial layers. The top terrestrial layer in Tai O comprised very thick silts which made construction difficult, and the settlement of the land had caused some houses in central Tai O to become slanted;
- (c) there were a lot of geological relics in this stretch of natural coastline, which included deposits of the quaternary era or even pre-quaternary era, gravel deposits formed by fresh groundwater flow, the Tai O Formation bedrock, boulder deposits on the hill slope of Keung Shan that might be relic lahar deposits and abandoned lime Kiln dated to the Tang Dynasty; and
- (d) if this natural coastline was built over, these geological relics of high educational, scientific and cultural value would be destroyed. A hard choice had to be made on whether to preserve or to destroy this natural coastline.

C16 – Cheung Chi On

30. Mr Cheung Chi On made the following main points:

- (a) he was not a Tai O resident but he liked Tai O and normally visited Tai O twice a month;
- (b) from his observation, there had not been much change in the natural environment of Tai O over the years. However, the Hong Kong-Zhuhai-Macao Bridge under construction was damaging the

environment of Tai O. He opined that Tai O should not be zoned mainly for conservation. There should be some house development and basic infrastructure to allow Tai O residents to have a decent living environment;

- (c) the green groups were not very precise about Tai O's current ecological conditions. For example, it was unclear whether some species previously spotted still existed in Tai O and if so, where were they spotted and what was the population of those precious species. Tai O was well conserved by the residents and there was no need to impose additional planning control for conserving the area. Instead, the relevant authority should step up patrolling to prevent tipping;
- (d) the Board should balance conservation and rights of the private landowners. The zonings on the Plan should not deprive the landowners of their property rights as it had taken them lots of hard work and savings to buy the land. It was unfair to rezone their land for conservation purpose; and
- (e) Members should visit Tai O to get a better understanding of the place.

C18 – So Chau Fu, So Wing Sze, So Wing Chiu

31. Ms Kwan Hang Yuk made the following main points:

- (a) she was previously a Tai O resident and she often visited her parents who were living in Tai O;
- (b) contrary to the claims of the green groups, the Tai O people had been preserving the environment and culture of Tai O. In fact, Tai O was already very green and there was no need to impose additional planning control for its conservation;
- (c) the environment of Tai O was not as fragile as portrayed by the green

groups. She had witnessed the flourishing and withering of the reedbed over the years. The reedbed had now become a mosquito breeding ground and was blocking the views of the mountain, she doubted whether it should be retained;

- (d) the green groups might not understand the Tai O situation. For example, the villagers dredged the river to prevent flooding but they were being accused of destroying the environment. The stilted houses were very stable and no stilted house had ever fallen. The green groups should not impose their wish for conserving Tai O at the expense of the residents;
- (e) unlike the green groups, Professor Yim Wai Shu Wyss (C1) had presented concrete information about the value of the natural coastline and she was being convinced that the natural coastline should be preserved;
- (f) there had been no development in Tai O over the years. Small House applications in Wang Hang, Leung Uk and the main street had never been approved. The Tai O Hospital was being closed down and the library was accommodated in a dilapidated building. The zoning of some 180 ha of land in Tai O for conservation, with no provision for support facilities, would not work. It would deprive Tai O of any development opportunities, the younger generation would be forced to leave Tai O and the Tai O community could not be sustained. The Board should rezone the flat land in Tai O as “V” to allow more Small House development; and
- (g) Wang Hang village was an existing village. However, the Plan only recognised part of the village. It was difficult to understand why some land owned by Mr So Kwong (R50 and C27) within the village was zoned “GB”. The “GB” and /or “CA” zonings would deprive the landowners of many uses on their private land.

[Ms Bonnie J.Y. Chan left the meeting at this point.]

C65 – Leung Tsz Kit

32. Mr Leung Tse Kit said that the Plan had taken away the development rights on their land. This was unreasonable as their ancestors had worked very hard and saved money to buy those land. Under the current planning, the Tai O community would likely disappear in some ten years' time.

C168 – Lee Yee Mei

33. With the aid of some photos, Mr Poon Kwok Kin, the Vice-principal of the Buddhist Fat Ho Memorial College, made the following main points:

- (a) he had worked in Tai O for over 30 years and he had a good understanding of Tai O;
- (b) to enhance acceptability of planning proposals, the plan-making process should be more accountable and transparent. It was more important to protect people than to protect insects and birds;
- (c) their school had planned to start a large scale agricultural rehabilitation project which would involve all staff and students. The land to the north of Leung Uk Tsuen could be made available for this project;
- (d) however, during their recent site visit, it was found that the soil in its current state was not suitable for farming. The soil had high salinity as the farmland had been flooded by sea water. The land was also too wet and with lots of puddles; and
- (e) the Board should provide a suitable zoning for the land so as to facilitate its use for farming.

C211 – Kwok Kowk Ying

34. Ms Kwok Shiu Yan made the following main points:

- (a) she was born in Tai O. She supported the views of other Tai O residents that private land should not be zoned for conservation and greening purposes. She also agreed that the burial grounds should be clearly delineated and specifically zoned for burial purpose; and
- (b) the mangroves that were grown in the abandoned salt pans only had a history of 40 years. However, the history of Tai O was much longer and dated back to the Sung Dynasty when Tai O was very vibrant due to the salt panning business. The Government was urged to ensure that the ‘salt panning demonstration project’ would be taken forward to showcase this very important aspect of Tai O’s history.

C237 – Wong Yung Kan

35. Mr Wong Yung Kun said that the green groups did not have a thorough understanding of the situation in Tai O. He doubted why the Board should accept the views of the ‘outsiders’ rather than views of the Tai O residents. The stilted houses were very stable and none of the stilted house had fallen over all these years. The mangroves had created a lot of hygiene problems. Regarding the incident in Hang Mei Stream, a lot of fishes were killed by a red tide, it was not due to silts from the river improvement project. Hang Mei Stream had become very shallow due to silts washed down from a previous landslide.

C238 - Wong Loi Mun

36. Mr Wong Loi Mun, the Tai O fishermen’s representative, made the following main points:

- (a) many points made by the representers in support of the Plan were not based on facts. In particular, the stilted houses were very stable and no

stilted house had ever fallen. The boulders were not put at the embankment due to instability of the stilted houses. They had requested the contractors of the boat shelter to leave the big boulders at the embankment to mitigate the stronger tides that might arise as the seabed was dredged deeper to accommodate the boat shelter. The incident where there was a lot of dead fish in Hang Mei Stream was due to a red tide and not due to the river improvement project;

- (b) they were indigenous fisherman and their families had lived in stilted houses in Tai O, but the Government did not recognise them. While they had no right to build Small Houses, they had to protect their burial rights; and
- (c) the burial grounds should not be zoned “GB”. The No. 3, 4 and 5 burial grounds were almost full and it was difficult to use the No. 2 burial ground as there were many big boulders. The burial grounds should be delineated and extended and be specifically zoned for burial purpose.

37. As the presentations were completed, the Chairman invited questions from Members.

“V” Zones

38. The Vice-chairman asked, by making reference to Plans 5a and 5b of the Paper, why the “V” zones designated on the Plan were smaller than the ‘VE’ of Leung Uk Tsuen. Mr Ivan Chung (DPO/SKIs) explained that the ‘VE’ of Leung Uk Tsuen covered an area of about 12.4 ha and the “V” zones designated at Leung Uk Village, San Tsuen and Wang Hang covered an area of 6.57 ha. The “V” zones were designated taking into account a number of factors, including the ‘VE’, local topography, existing land use, site constraints, outstanding Small House applications and 10-year Small House demand forecast. In this regard, parts of an existing burial ground and the Tai O Reedbed that fell within the ‘VE’ were not zoned as “V”. About 2.18 ha of land within the “V” zone were suitable for Small House development and that was equivalent to a land area for 87 Small Houses.

During the preparation of the Plan, LandsD advised that the 10-year Small House demand forecast was 80 and there were six outstanding applications for Small House development. However, during the processing of the representations, LandsD further advised that the 10-year Small House demand forecast had been reduced from 80 to 60. The areas zoned “V” were sufficient to meet both the Small House demand forecast and outstanding Small House applications. With regard to R50’s proposal to extend the “V” zone at Wang Hang, Mr Ivan Chung explained that the “V” zone there only covered the existing village house cluster as the Wang Hang area was outside the ‘VE’.

Proposal to Rezone the Tai O Reedbed from “CA” to “AGR”

39. The Vice-chairman asked the representatives of Heung Yee Kuk (R44) how long the Tai O Reedbed area had been left unfarmed and why the locals initiated agricultural rehabilitation at this point in time. Ms Carmen Chan Ka Mun said that the Tai O Reedbed area was left unfarmed since the mid-1970’s for reasons as explained by the villagers in the meeting, including damage to the embankment caused by a typhoon and the negative impacts caused by the land filling to build Lung Tin Estate. The landowners considered that agricultural rehabilitation would be meaningful as students could learn about agricultural production. The private land in Tai O Reedbed comprised agricultural lots and the landowners wished to protect their right for agricultural use under the leases. Otherwise, if their land was zoned for conservation, it would seriously affect the land value. If the embankment was properly fixed and maintained in future, some areas within the Tai O Reedbed should become arable again and the villagers had knowledge of the right type of plants to grow in that kind of soil. Mr Wong Fuk Kan (R49 and C6) supplemented that lotus was suitable to be grown in this type of soil. In response to another Member’s question, Ms Carmen Chan Ka Mun said that the agricultural rehabilitation project would utilise natural water sources including water flowing from streams.

40. In response to the Chairman’s question on the ecological value of the Tai O Reedbed, Mr Cary Ho, Senior Nature Conservation Officer, AFCD, said that the wetland in Tai O Reedbed was of high ecological value. The Four-spot Midget which was a damselfly of conservation importance and more than 30 species of birds, butterflies and dragonflies were found in the reedbed. The reedbed was also the foraging and roosting ground of many wetland birds.

41. The Vice-chairman asked what the overall ecological impacts would be if the Tai O Reedbed was rezoned from “CA” to “AGR” as proposed by some representers. Mr Cary Ho said that if the Tai O Reedbed was changed to agricultural land, it might involve landfilling and the wetland ecology would be changed to terrestrial habitat serving different ecological functions. The magnitude of negative impacts would depend on the extent of the Tai O Reedbed that was proposed to be reverted to agricultural use.

42. Another Member said that the Tai O Reedbed and even the mangrove replanting area to its east were previously farmland and they were not natural habitats. The Member asked AFCD why reverting the Tai O Reedbed to its original use as farmland would destroy the ecology of the area. Mr Cary Ho said that at present Tai O Reed was wetland habitat of high ecological value. They would only provide advice based on the current ecological conditions and value of the Tai O Reedbed to PlanD for considering the appropriate zonings on the Plan. Another Member asked whether AFCD would have any objection to any future planning application for land filling to effect agricultural use within the “CA” zone. In response, Mr Cary Ho said that it would depend on the extent of land filling proposed and it had to be considered on a case-by-case basis.

43. A Member asked whether some areas of the Tai O Reedbed could be identified for agricultural use given the high salinity of the soil. Mr Cary Ho said that farming could be carried out in the entire Tai O Reedbed as ‘agricultural use’ was a permitted use under the “CA” zone. However, he did not have the expertise to advise which crop might be more suitable for the area.

44. Another Member asked whether it would be feasible to relocate a portion of the Tai O Reedbed if some areas were to be reverted to agricultural use. Mr Cary Ho opined that it was unlikely that the Tai O Reedbed could be relocated as the reedbed was formed through natural succession over many years.

45. In response to a Member’s question, DPO/SKIs explained the different provisions for agricultural use and house development under the “GB”, “AGR” and “CA” zones. For agricultural use, under the “GB” zone, ‘Agricultural Use’ was a Column 1 use that was always permitted. Under the “AGR” zone, ‘Agricultural Use’ involving land

filling not more than 1.2m as well as ‘On-farm Domestic Structure’ were Column 1 uses. Under the “CA” zone, ‘Agricultural Use (other than plant nursery)’ was a Column 1 use but land filling to effect ‘Agricultural Use’ required planning permission from the Board. For house development, under the “GB” zone, ‘House (other than rebuilding of New Territories Exempted House (NTEH) or replacement of existing domestic building by NTEH permitted under the covering Notes)’ was a Column 2 use that required planning permission from the Board. Under the “CA” zone, redevelopment of house might be permitted on application to the Board but new house development was not permitted.

46. A Member opined that the “CA” zoning was to reflect the ecological value of the existing reedbed. However, if the embankment was restored in future, the wetland and the reedbed might not be sustained and the “CA” zoning might no longer be appropriate. Mr Cary Ho opined that if the Tai O Reedbed was no longer sustained as wetland in future, the overall adverse effects on the flora and fauna and the roosting and foraging grounds for the birds in Tai O as a whole might not be too detrimental as there were other wetland areas in Tai O.

47. Mr Wong Fuk Kan said that about two-thirds of Lantau Island was already green area, the Government could continue to reserve government land for conservation but it was unfair to zone private land of villagers for conservation purpose. He said that only one species of bird (which they called 白面雞) would visit the Tai O Reedbed and that reedbed area should be excluded from the “CA” zone. He urged Members to carefully consider the private property rights of villagers and exclude all private land from conservation zonings.

Proposal to rezone an area at Wang Hang from “GB” to “AGR” zone

48. A Member said that Mr So Kwong (R50 and C27) proposed to rezone an area at Wang Hang which was being used for growing fruit trees from “GB” to “AGR” to reflect its existing use. The Member asked DPO/SKIs to clarify whether growing of fruit trees was permitted under the “GB” zone. In response, Mr Ivan Chung said that the “GB” zoning would not affect the existing use of the land and it could continue to be used for growing fruit trees.

49. Another Member asked whether replacement and replanting of the existing fruit trees with another species of fruit trees required planning permission under the “GB” zone. Mr Ivan Chung explained that under the “GB” zone, ‘Agricultural Use’ was an always permitted use and there was no planning control on the species of trees.

50. Mr So Kwong and Mr So Chee Chiu (R75) said that their family had grown fruit trees in the subject “GB” area for two generations. Mr So Kwong said that the Board should respect their rights under the leases, and their private lots should be rezoned to reflect their existing uses as farmland and the Old Schedule building lots accordingly. Ms Carmen Chan Ka Mun said that Mr So was worried that the “GB” zoning would affect the application for rebuilding of an old house that he had submitted to DLO. Mr Ivan Chung said that under the “GB” zone, rebuilding of NTEH was always permitted but ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ required planning permission from the Board. They had informed DLO accordingly when providing comments on Mr So’s application. In response to Ms Carmen Chan Ka Mun’s question, Mr Ivan Chung said that there were specified dimensions for NTEH (with a built-over area of 65.03m² and a building height of 8.23m).

51. The Chairman asked DPO/SKIs why the area used for growing fruit trees was zoned “GB” rather than “AGR”. Mr Ivan Chung said that the “GB” zone covered a larger vegetated area and the zoning was appropriate for preserving the vegetation and wooded area. The land owned by Mr So Kwong fell within this larger “GB” zone.

Area zoned “U” to the East of Sun Ki Street

52. In response to a Member’s question on the rationale for zoning an area to the east of Sun Ki Street as “U”, Mr Ivan Chung said that the restoration of salt pans was one of the recommendations of the “Study on Revitalisation of Tai O”. Under the subsequent “Tai O Facelift – Feasibility Study”, the area zoned “U” had been identified as a suitable site for the ‘salt panning demonstration area’. CEDD was still examining the details of the ‘salt panning demonstration area’, including the development parameters as well as the impacts on the surrounding areas. All developments within the “U” zone, except those specified in the covering Notes, required planning permission from the Board.

53. Mr Yu Ho Kwan (R48 and C5) indicated that according to the experience from another salt panning restoration project in Yim Tin Tsai, the area zoned “U” for the ‘salt panning demonstration area’ might need to be slightly enlarged and the configuration might need to be altered. However, these details could be addressed by CEDD in the detailed design stage.

54. As Members had no further question to raise, the Chairman said that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and would inform them of its decision in due course. The Chairman thanked them and the government representatives for attending the hearing. They all left the meeting at this point.

Deliberation

55. The Chairman invited Members to consider the representations and comments, taking into consideration all written submissions and oral presentations at the meeting.

Proposal to rezone an area at Wang Hang from “GB” to “AGR”

56. Members noted that R50 proposed to rezone an area that he was using for growing fruit trees from “GB” to “AGR” but that the “GB” zoning would not affect the existing use of the land for growing fruit trees. In response to two Members’ questions, the Secretary said that if the agricultural use only involved ploughing genuinely needed for agricultural activities and not very extensive excavation, planning application was not required. The replacement of the existing fruit trees with a different species of trees also would not require planning application.

57. The Secretary explained that the planning intention for the “GB” zone was mainly for conservation purpose. According to the Town Planning Board Guidelines for “Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance”, the planning intention of the “GB” zone was primarily to promote the conservation of the natural environment and there was a presumption against development in a “GB” zone. An application for new development would only be

considered in exceptional circumstances; for example, the Board would normally allow application for Small House development on building lots.

58. Members noted that there were different provisions for agricultural uses under the “AGR” and “GB” zones. Under an “AGR” zone, agricultural use involving land filling not more than 1.2m was always permitted. In “GB” zone, agricultural use was always permitted but the Remarks of the Notes included a clause that any diversion of streams, filling of land/pond or excavation of land would require planning permission. In response to the Chairman, the Secretary said that DPO/SKIs had explained that the subject “GB” zone was appropriate as it covered a larger stretch of land with wooded area, and areas with extensive tree coverage were normally zoned “GB”.

59. A Member said that Mr So Kwong (R50 and C27) indicated in the meeting that he would continue with agricultural use of the land for growing fruit trees and would re-build houses on the building lots, and such intended uses were permissible within a “GB” zone. Hence, Members considered that there was no justification to amend the existing “GB” zoning. Other Members agreed.

Tai O Reedbed

60. The Chairman asked Members to consider whether the Tai O Reedbed should continue to be zoned “CA” or should be rezoned, say to “AGR”, as proposed by some of the representers.

61. A Member said that the representers had explained that the reedbed area was originally farmland. After the embankment was damaged, the farmland was salinised by sea water and became non-arable and was left unfarmed. Given such history, the Member said that consideration could be given to rezoning the reedbed area to “AGR”.

62. Another Member agreed that the history of the reedbed area should be taken into consideration. The Member said that the main contention of the representers was that private land should not be zoned “CA” as it would be subject to very stringent planning control. The Member doubted whether the reedbed could be sustained since the land was under private ownership.

63. Another Member said that since the reedbed area was on private land, zoning it as “CA” could not ensure that the reedbed would be kept in its current state. The Member proposed that the reedbed area might be rezoned to a less stringent zoning that provided flexibility for more alternative uses. Nevertheless, development of houses should require permission from the Board.

64. The Vice-chairman said that the Board had all along striven to balance conservation and development but where there were special circumstances, the Board might zone some areas for development as a trade-off for protection of some areas with high ecological value. Considering there were other areas being zoned “CA” in Tai O, rezoning the reedbed area to “AGR” might not lead to very detrimental effects on the overall ecology in the Area. While AFCD had provided expert advice on the ecological value of the Tai O Reedbed, they did not advise at the meeting that the value would be destroyed if the reedbed area was rezoned to “AGR”.

65. The Chairman said that the Tai O Reedbed case shared some similarity with the Sha Lo Tung case, in that the ecological value of both areas were developed over many years after the farmland had been left unfarmed. He reminded Members that whether an area should be zoned “CA” should be based on its ecological significance and land ownership should not be a major planning consideration. He said that Members might wish to consider whether the ecological value of the Tai O Reedbed warranted a “CA” zoning. He referred Members to paragraph 5.19(b) of the Paper which stated AFCD’s advice that the Tai O Reedbed was a recognised habitat of conservation importance. The Board should consider whether there were grounds to reject the expert advice. He said that should the ecological value of the area drop in future, the zoning could be reviewed.

66. A Member said that a lot of land in the New Territories was left unfarmed due to low economic returns from agricultural production and not because the land was non-arable. The Member believed that the farmland in the Tai O Reedbed was being left unfarmed for the same reason. The Member said that as the issue of compensation was not within the purview of the Board, the zoning of the reedbed area should be based on land use planning considerations. Hence, the Member considered that even though the “CA” zoning would affect the land value and the future development potential of the land,

the “CA” zoning should be maintained due to its current ecological value as advised by AFCD. There should be other areas within the planning area for villagers to carry out farming. In this regard, Members noted that some representers had indicated that their intention was not to engage in farming but to rebuild houses for renting out to support their living after retirement.

67. Two other Members agreed that the reedbed area should be zoned “CA” based on its ecological value as advised by AFCD. A Member also opined that the chance that the reedbed area would be rehabilitated for agricultural use was not high, given its history of having been left unfarmed for many years, the land had been salinised and the low economic returns from agricultural produce.

68. After further discussion, the meeting agreed that there was no justification to reject the expert advice of AFCD that the reedbed had high conservation value. The “CA” zoning should be maintained. The meeting also noted that genuine agricultural activities would be permissible, and there appeared to be difficulty to undertake agricultural rehabilitation in the reedbed area. If there were changes in the conditions of the reedbed in future, the “CA” zoning could be reviewed.

69. The Board noted the views of the supporting representations but their proposals for more stringent controls were not agreed. Regarding views about insufficient public consultation, the Board noted that the plan exhibition and hearing procedures had followed the normal procedures in accordance with requirements of the Ordinance. With regard to the representations related to burial grounds, the Board noted that under the “GB” zoning the existing burial grounds could continue to be used for burial purpose and planning application was not necessary for graves and the burial rights of the indigenous villagers and locally based fishermen will not be affected. For grounds relating to contravention of the Basic Law, the Board noted the responses in the Paper and agreed that the Plan had not contravened the Basic Law as claimed by some representers and commenters.

70. Members then went through the reasons for not upholding the representations; and the responses to the proposals of the representers as detailed in paragraphs 7.1 to 7.3 of the Paper and considered that they were appropriate.

Representations No. R1 to R5 and R7 to R43

71. After further deliberation, the Board noted the support of R1(part), R2 (part), R3(part), R4 (part), R5 and R7 to R43.

72. The Board also decided not to uphold the remaining parts of R1 to R4 for the following reasons:

“ *Hang Mei Stream (R1 to R3)*

- (a) The stream at Hang Mei which is on Government land is not an Ecologically Important Stream and there is no sufficient information to demonstrate that the stream has conservation or ecological values that warrant its zoning as “CA”.

Disused Salt Pans (R1 to R4)

- (b) The area zoned “U” on the Plan has been identified as a suitable site for the proposed “salt panning demonstration area” based on the “Tai O Facelift – Feasibility Study”. To ensure development within the “U” zone will not create adverse impact on the surroundings pending further studies and assessments to finalize the design details of the proposal, all uses or developments within the “U” zone require permission from the Board.

Other Proposed Conservation Zonings for the Plan

- (c) The natural river bank of the stream at Hang Mei has already been designated as “CA” while the remaining areas along the stream cover the existing village settlement at San Tsuen zoned “V” and the vegetated knoll to the east of San Tsuen zoned “GB”. There is no ecological value to support zoning of these areas as “CA”. The “V” and “GB” zonings are considered appropriate (R3 and R4).

- (d) The “GB” zoning for the area to the south of the Tai O Reedbed is appropriate to serve as a buffer to safeguard the Tai O Reedbed against any undesirable disturbance arising from the village type development nearby (R1).

Proposed Amendment to the Notes of “CA” and “CPA” Zones (R1)

- (e) Any diversion of streams, filling of land/pond or excavation of land within both “CA” and “CPA” zones including works coordinated or implemented by the Government requires permission from the Board. Amendment to the Notes of the Plan to impose additional restriction is not necessary.

Requirement of Tree Survey and Assessment (R1)

- (f) Tree survey and assessment will be carried out by the project proponent as part of the improvement project for the proposed trekking route between Shek Tsai Po Street and Po Chue Tam.”

Representations No. R6

73. After further deliberation, the Board noted the support of R6(part). The Board also decided not to uphold the remaining part of R6 for the following reasons:

“ *Hang Mei Stream*

- (a) the stream at Hang Mei which is on Government land is not an Ecologically Important Stream and there is no sufficient information to demonstrate that the stream has conservation or ecological values that warrant its zoning as “CA”; and

Disused Salt Pans

- (b) the area zoned “U” on the Plan has been identified as a suitable site for the proposed “salt panning demonstration area” based on the “Tai O Facelift – Feasibility Study”. To ensure development within the “U” zone will not create adverse impact on the surroundings pending further studies and assessments to finalize the design details of the proposal, all uses or developments within the “U” zone require permission from the Board.”

74. The Board also agreed to inform R6 of the following:

- “ There are existing mooring and berthing facilities for vessels like the Tai O Sheltered Boat Anchorage and public landing piers at Tai O. There are also new/improved jetties in the remaining works of the “Tai O Facelift – Feasibility Study”. The representer’s proposal will be relayed to the relevant departments for consideration.”

Representation No. 44 to R77

75. After further deliberation, the Board decided not to uphold R44 to R77 for the following reasons:

- “ *Opposing the Conservation Zonings (R44 to R54)*

- (a) The designation of various land use zones on the Plan is based on relevant planning considerations. The “CA” zones cover areas of high ecological and conservation values while the “GB” zones serve to preserve the existing topography and natural vegetation. Compensation for designating private land under the “CA” and “GB” zones falls outside the purview of the Board.
- (b) The “CA” and “GB” zones on the Plan will not deprive the landowners of the Old Schedule Agricultural Lots under Block Government Lease of their right for agricultural use because such use is always permitted within these zones according to the Notes of the

Plan.

Land for Small House Development (R45 to R48)

- (c) The boundaries of the “V” zone are drawn up having regard to the local topography, the existing land use, the site constraints, the ‘VE’ of the recognized village and the outstanding Small House applications as well as Small House demand. There is sufficient land to meet the Small House demand of the recognized village. There is no strong planning justification to reserve more land beyond the “V” zone for Small House development.
- (d) Application for development of Small House outside the “V” zone may be made to the Board in accordance with the provisions of the Plan under section 16 of the Ordinance and each case will be considered on its individual merits.

Burial Grounds (R45 to R47)

- (e) Under the covering Notes of the Plan, the provision, maintenance or repair of a grave of an indigenous New Territories villager or a locally based fisherman and his family members for which permission has been obtained from the Government is always permitted in the “GB” zones.

Violation of the Basic Law (R50 and R51)

- (f) Insofar as the rights and interests embodied by the hillside burial policy and the New Territories Small House Policy have already been qualified by the system of OZP before the Basic Law came into force on 1.7.1997, subjecting them to planning controls imposed by the Plan would not be inconsistent with Article 40 of the Basic Law.
- (g) The planning controls imposed by the Plan would not involve any

formal expropriation of property. Nor would they leave the land concerned without any meaningful alternative use. As such, they would not constitute ‘deprivation of property’ for the purposes of Articles 6 and 105 of the Basic Law requiring payment of compensation.

Infrastructure Planning for Tai O (R45 to R47, R50 and R51)

- (h) The Improvement Works for Tai O Facelift have been carried out by concerned departments in phases to bring about new or improved elements for sustaining the economy, culture and eco-tourism in Tai O, thereby enhancing the livelihood of residents in the longer term.
- (i) There are sites zoned “Other Specified Uses” annotated “Sewage Treatment Works” and “Government, Institution or Community” on the Plan to provide land for expansion of the existing sewage treatment works and service reservoir respectively.
- (j) There is no justification for building a new road between Tung Chung and Tai O considering the overall planning concept of Lantau.

Insufficient Public Consultation (R44 to R48, R50 to R52 and R55 to R77)

- (k) The preparation of the Plan to replace the DPA Plan is essential in maintaining statutory planning control over the Area. Both IsDC and TORC have been consulted prior to the publication of the Plan. Besides, the statutory plan-making process, which involves the exhibition of the Plan for public inspection and the hearing of representations and comments received, is itself a public consultation process under the Ordinance. There are no reason and no provision under the Ordinance to revoke the draft Plan.

Inadequate Justifications in the Explanatory Statement (R48)

- (1) The Plan has been formulated in consultation with the concerned departments and on the basis of previous studies for which public consultations have been conducted. The Explanatory Statement serves to set out the detailed planning intention and objectives of the Board for the various land use zonings of the Plan.”

76. The meeting was adjourned for lunch break at 2:30pm.

77. The meeting was resumed at 3:20 p.m.

78. The following Members and the Secretary were present in the afternoon session:

Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Mr Timothy K.W. Ma

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Roger K.H. Luk

Ms Anita W.T. Ma

Professor K.C. Chau

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Lincoln L.H. Huang

Mr Dominic K.K. Lam

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr F.C. Chan

Ms Bernadette H.H. Linn

Tsuen Wan and West Kowloon District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K5/736

Proposed Hotel in “Residential (Group A)6” Zone,

98 – 100 Apliu Street, Sham Shui Po, Kowloon

(TPB Paper No. 9454)

[The hearing was conducted in Cantonese and English.]

Presentation and Question Session

79. The application was submitted by Rich Asian Limited, and Townland Consultants Limited, CKM Asia Limited and Environ Hong Kong Limited were three of the consultants of the applicant. The following Members had declared interests in this item:

- | | |
|---------------------|---|
| Mr F.C. Chan | - jointly owned a flat on Sai Yeung Choi North Street and solely owned a flat on Tai Po Road |
| Mr Dominic K.K. Lam | - had business dealings with Townland Consultants Limited and Environ Hong Kong Limited |
| Professor P.P. Ho | - had business dealings with CKM Asia Limited |
| Mr Timothy K.W. Ma | - served in an organisation which owned two flats in Sham Shui Po |
| Professor S.C. Wong | - CKM Asia Limited had financially sponsored some activities of the Institute of Transport Studies of the University of Hong Kong of which Professor Wong was the Director of the Institute |

80. Members noted that the properties of Mr Chan had no direct view to the subject site, and Mr Lam and Professor Ho had no direct involvement in the subject

application. Members considered that the interests declared by Mr Ma and Professor Wong were indirect. Members agreed that the above Members could stay in the meeting and participation in the discussion. Members also noted that Professor Ho had tendered apology for being unable to attend the meeting.

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

Mr Wilson Chan	- District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), PlanD
Mr Philip Chum	- Senior Town Planner/Sham Shui Po, PlanD
Ms Keren Seddon]
Ms Cindy Tsang]
Mr Vincent Lau]
Mr Darrin Woo]
Mr Alan Lo] Applicant's Representatives
Ms Yenn Wong]
Mr Nick Tung]
Mr Eric Liu]
Ms Claire Chan]

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

83. With the aid of a Powerpoint presentation, Mr Wilson Chan presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for a proposed hotel at the application site which fell within an area zoned "Residential (Group A)6" ("R(A)6") on the draft Cheung Sha Wan Outline Zoning Plan

(OZP) No. S/K5/34;

- (b) the application was rejected by the Metro Planning Committee (MPC) of the Town Planning Board (the Board) on 19.7.2013 and the reasons were:
- (i) the application site was located in a predominantly residential neighbourhood. Given the current shortfall in housing supply, the site should be developed for its zoned use. The proposed hotel development would result in reduction of sites for residential developments, which would affect the supply of housing land in meeting the pressing housing demand over the territory; and
 - (ii) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would aggravate the shortfall in the supply of housing land.

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

- (c) the justifications put forth by the applicant in support of the review application were summarised in paragraph 3 of the Paper and highlighted as follows:
- (i) the proposed hotel development would have no adverse traffic, environmental, sewerage or other impacts;
 - (ii) the proposed hotel development was not incompatible with the land uses in the vicinity;
 - (iii) the Board had a duty to approve any application for Column 2 uses, unless there were substantive reasons to reject the proposed uses. It was fundamentally wrong to impose a

'blanket' presumption that one or more Column 2 uses for any particular zone would not be supported unless with very strong justifications;

- (iv) the rejection reason on the reduction of housing land was based on a general, non-site specific decision made with regard to the entire "R(A)" zone. Housing need had become a highly politicised issue which should not unduly affect the Board's decision; and
- (v) the rejection reason on setting of undesirable precedent was not an issue as the application site was highly suitable for hotel use and each application should be considered on its individual merits. Compared with the approved cases, the application site was more favourably located in terms of its proximity to public transport and local tourism resources;
- (d) the application site, with an area of about 244.28m², was occupied by an existing 4-storey walk-up residential building (with ground floor shops). The surrounding areas predominantly comprised low to medium-rise residential buildings with commercial uses on ground floor;
- (e) the proposed hotel would provide not more than 60 guestrooms, with a non-domestic plot ratio of 9, a gross floor area of 2,131.866m², a building height of 19-storey (73.8mPD) and a non-domestic site coverage of 49.224%;
- (f) previous application – there was no previous application covering the application site;
- (g) similar applications – there were 15 similar applications within areas zoned "R(A)" on the same OZP, with eight applications approved and seven applications rejected. Six applications were rejected mainly on traffic and/or land use compatibility grounds. The most recent

application (No. A/K5/731) was rejected by MPC on the grounds of reduction of housing land and no planning merits;

- (h) departmental comments – the departmental comments were as detailed in paragraph 5 of the Paper. The concerned government departments had no objection to or no adverse comments on the review application;
- (i) public comments – 11 public comments on the review application were received, with six supporting and five objecting to the review application. The supportive views (submitted by a member of the Sham Shui Po East Area Committee, the Savannah College of Art and Design Hong Kong (SCAD), Goods of Desire Limited (G.O.D.), Heritage Tea House, Jockey Club Creative Arts Centre (JCCAC) and Galerie Ora-Ora) were mainly that a variety of businesses could bring vibrancy and create a catalyst in the regeneration of the old urban area. It would also help to meet the demand for hotel. Four residents of nearby Cheung Hong Mansion and another local resident objected to the review application mainly on the grounds that the proposed hotel development would trigger traffic congestion, cause disturbance to the nearby residents and worsen the quality of life of the residents; and
- (j) PlanD's views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of the Paper which were summarised below:
 - (i) there had been no material change in the planning circumstances of the case since the application was rejected by MPC;
 - (ii) the application site fronting onto Apliu Street was located within an area which was predominantly residential in character with commercial/retail uses on the ground floor. Within the immediate vicinity of the application site, there were no similar hotel applications;

- (iii) the prevailing shortage of land for housing development should be an important factor in considering the application. The subject building and its surrounding buildings were ready for redevelopment. Although the reduction of only one site with an area of 244.28m², which could provide about 40 flats, would not significantly affect the total housing supply, it would create an undesirable precedent. Approval of other similar applications in the area would lead to cumulative impact on housing supply; and

- (iv) as for the subject application, the application site was located in a predominantly residential neighbourhood, which could not be regarded as highly suitable for hotel use or particularly conducive to such development. Besides, there was no specific planning objective that a hotel development at the application site could strive to meet. There was therefore no strong justification to support the application.

84. The Chairman then invited the applicant's representatives to elaborate on the review application.

85. Ms Keren Seddon made the following main points:

Background

- (a) at the time of submitting the subject application, several applications for hotel developments in "R(A)" zones had been rejected by MPC as a reaction to the shortfall in housing supply. The application was also rejected by MPC on 19.7.2013;

- (b) the application site was wholly owned by the applicant. Being a leader in the hospitality industry, the applicant was genuinely willing to develop a hotel at the application site;

- (c) according to an article newly published in the HK Economic Times, there was a need to double the supply of hotel rooms in the next 10 years to support the tourism industry. There had been a lot of discussion about the increasing demand for hotel accommodation in Hong Kong;

The Applicant

- (d) the applicant's representatives including Mr Darrin Woo, Mr Alan Lo and Ms Yenn Wong were at the meeting. They were the executive director or partner of the parent company of the applicant and had extensive experience in promoting tourism, design and culture. The applicant was a food and beverage operator with strong commitment towards urban revitalisation, bringing new life to neglected neighbourhoods;
- (e) some of their notable projects included J Plus Boutique Hotel (a designer boutique hotel in Causeway Bay with awards), JIA Shanghai (a luxury-residence concept, fully serviced boutique hotel set in a 1920's building in the heart of Shanghai) and The Pawn (a 4-storey building in Wan Chai which was a local heritage conservation project and renowned for its food and heritage value);

The Proposal

- (f) the proposed hotel was intended to provide a wide range of budget hotel accommodation for visitors, such as large shared rooms for new age travellers and rooms for longer-stay visitors. It would be designed by Mr Thomas Heatherwick;
- (g) the proposed hotel would provide not more than 60 guestrooms ranging from 14m² to 56m² each. It would have a building height of 19 storeys (74.1mPD) which complied with the maximum building height of 80mPD under the OZP;
- (h) the proposed hotel was in line with the 2012 Election Manifesto of the

Chief Executive (CE) regarding the development of wholesale businesses in Sham Shui Po, i.e. “to promote them, introducing tourists to visit the wholesale markets and in so doing bring vitality to such neighbourhood businesses”;

The Application Site

- (i) Sham Shui Po was rich in local character, commerce and culture. Located in the midst of Sham Shui Po wholesale cluster and in close proximity to MTR station and other public transport facilities, the application site had great local tourism potential, with numerous options for shopping and sightseeing and many eateries that not only attracted tourists but also Hong Kong people;
- (j) all domestic floors of the existing building at the application site had been vacated;

Planning Merits

- (k) the proposed hotel was in line with the government policy to promote tourism by increasing the supply and types of hotel accommodation, and specifically to promote local tourism in Sham Shui Po;
- (l) there was a demonstrated demand for hotel accommodation, particularly for budget hotel accommodation in areas other than Hong Kong Island and Tsim Sha Tsui;
- (m) the proposed hotel, at the heart of the wholesale cluster and near to the MTR station, would attract visitors to the Sham Shui Po area and thereby enhance the growth of businesses and tourism in the area. It would not only enhance the local economic growth but also act as a catalyst for further urban renewal in the form of revitalisation;

Planning Context

- (n) according to the draft Cheung Sha Wan OZP No. S/K5/34,

there were no specific sites reserved for 'Hotel' use in Sham Shui Po, and thus planning permission would be required to increase the hotel accommodation in the area. In other words, if the Government's tourism policy was to be effective, some of the "R(A)" sites in Sham Shui Po and specifically those in the wholesale cluster should be used for hotel developments;

Non-residential Provisions for "R(A)" zone

- (o) according to the Notes of the OZP for "R(A)" zone, there were numerous non-residential uses under Column 1 (which were always permitted) or Column 2 (which required planning permission). If it was the planning intention to disallow non-residential uses including 'Hotel' in "R(A)" zone, the OZP should be amended rather than rejecting such applications under the planning application mechanism;

Reasons for Rejecting the S.16 Application

- (p) the rejection reason on reduction in housing land could not be established. The application site was in fact located at the heart of the Sham Shui Po wholesale cluster. While it was zoned "R(A)", many non-residential uses were Column 1 uses which were permitted as of right. Besides, the zoned use did not preclude 'Hotel' and other non-residential uses. It should be noted that there was also pressing demand for other uses such as elderly facilities, schools, cultural and art related facilities and hotels other than housing. These uses should also be allowed within the "R(A)" zone;
- (q) the rejection reason on setting of an undesirable precedent was unfounded. Relevant government departments did not raise any objection to the application. Moreover, the claim that the proposed hotel would be detrimental to the housing supply could not be substantiated;

Grounds for Review

- (r) the applicant applied for a review of MPC's decision on the application on the following grounds:

Bypassing the Statutory Plan-making Process

- (i) the statutory plan-making process provided a systematic and transparent formulation, monitoring and review of town plans. The public would be involved in the process. However, MPC's decision had in effect bypassed the statutory plan-making process, especially the presumption against non-residential developments within the "R(A)" zone had not been included on the relevant OZP when it was gazetted in April 2013. The legal opinion given by the applicant's legal representative Mayer-Brown JSM on this matter had not been properly addressed in the TPB paper;

No Material Change in Planning Circumstances

- (ii) according to the record, there were many approved hotel applications in the vicinity. There had been no material change in the planning circumstances since the approval of these similar applications or gazettal of the OZP in April 2013;

No Justifications for Application of 'Blanket' Policy

- (iii) there was no justification for application of 'blanket' policy as no proper planning studies had been undertaken by the Government on the housing issue and it was wrong to presume that a "R(A)" zone would necessarily be developed for residential use given that some non-residential uses were permitted as of right;

Impact on Hong Kong's Overall Competitiveness

- (iv) tourism was one of the key pillars of Hong Kong's economy. The hotel industry had an increase in overnight visitors by 37% since 2008. The CE and the Economic Development

Committee of the Convention and Tourism Working Group had expressed that there was a need to double the number of hotel rooms over the next 10 years. As such, by imposing a ‘blanket’ policy in favour of housing would unfairly compromise other important sectors of the economy, which might result in adverse impact on Hong Kong’s overall competitiveness;

Policy Support for Hotel Industry

- (v) there was policy support for providing more hotel accommodation. The Commissioner for Tourism supported the application and advised that there was a need to ensure adequate hotel facilities so as to enhance the appeal of Hong Kong as an International Convention, Exhibition and Tourism Capital; and the proposed development would increase the number of hotel rooms, broaden the range of accommodation for visitors, and support the rapid development of convention and exhibition, tourism and hotel industries;

Responses to the Rejection Reason on Setting of Undesirable Precedent

- (vi) precedent was not an issue in granting the approval for the application as the proposed hotel was in line with the provisions of the OZP. There were numerous similar approved applications in the “R(A)” zone. However, in rejecting the application, the Board would set an undesirable precedent by making use of the planning application mechanism to bypass the plan-making process;

Comments from Relevant Government Departments

- (s) relevant government departments had no objection to or adverse comments on the application. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD recognised an opportunity for providing landscaping on the flat roof of the 1/F of the proposed hotel

and vertical greening to the podium design, and suggested imposing an approval condition on landscaping should the application be approved. The applicant was willing to accept this approval condition. Such an approval condition or planning gain could not be realised if the application site was redeveloped for residential use;

Reponses to the TPB Paper

- (t) it was stated in the TPB paper that land use compatibility was not an issue and favourable consideration would be given to cases where the site was very conducive to hotel development or the hotel development would meet a specific planning objective. It should be noted that the applicant was well known for groundbreaking innovative modern revitalising concepts and trends. Their newest project aimed to usher in a new generation of travellers to Hong Kong. The application site, with the applicant's innovation, would meet specific planning objectives of urban re-gentrification, tourism enhancement, improvement to the local economy and enhancement of local character;

Public Support

- (u) six supporting public comments on the review application were received. They included a member of the Sham Shui Po East Area Committee, SCAD, G.O.D., Heritage Tea House, JCCAC and Galerie Ora-Ora. They supported the review application because the proposed hotel development would act as a catalyst for Sham Shui Po and provide an opportunity to discover and exhibit the rich local culture, collective memory and character of this living museum. While there were five public comments objecting to the review application mainly on traffic and environmental grounds, relevant government departments had no objection to the review application;

TPB's Duty to Consider Approval

- (v) TPB had a duty to approve any application for Column 2 uses, unless there were substantive reasons for rejecting the proposed use at a

particular site in question;

- (w) in considering whether there existed site-specific substantive reasons for rejection, TPB should consider any planning application strictly by reference to the OZP, its Notes and Explanatory Statement (ES), and not override these by reference to any extraneous considerations that were not mentioned in, or were contradictory to the OZP, its Notes and/or ES. Relevant law cases were quoted by Mayer-Brown JSM in the applicant's written submission but no response was provided in the TPB paper;

Conclusion

- (x) tourism was critical to the Hong Kong economy. Emphasis should be placed in recognising the importance of this industry in order to maintain Hong Kong's competitiveness on the world stage. The proposed hotel would create a gateway to untapped local culture in Sham Shui Po including the wholesale cluster; and
- (y) the Board was requested to give favourable consideration to the review application taking into account that the application site was very conducive to hotel development and the proposed hotel would meet a host of specific planning objectives.

86. As the applicant's representative had finished the presentation, the Chairman invited questions from Members.

Statutory Planning Context

87. In response to a Member's question, Mr Wilson Chan said that 'Hotel' use was in general always permitted in "Other Specified Uses" annotated "Hotel" and "Commercial" zones on OZPs. For the "R(A)" zone, since the planning intention was primarily for high-density residential developments, some non-residential uses including 'Hotel' were put under Column 2 under which planning applications would be approved by the Board where justified. There was no evidence that the Board had adopted a 'blanket' presumption against hotel applications in "R(A)" zone. Having taken into account all

relevant planning considerations, the Board would consider each application on its individual merits. For instance, within the Cheung Sha Wan area, Application No. A/K5/730 for a proposed hotel development in a “R(A)” zone was approved with conditions by MPC on 19.4.2013 taking into account the merits of the proposed hotel development in alleviating the industrial/residential interface problem in the area.

88. Ms Keren Seddon said that there was a recent trend of decentralisation of hotel developments. New hotels were no longer clustered in the Central Business District such as Tsim Sha Tsui in view of the increasing demand for various types of budget hotels. In the past, hundreds of hotel applications within “R(A)” zone had been approved by the Board. She could only recall one similar application which was rejected by the Board some years ago mainly on the concern of adverse impact of the hotel development on the school children nearby. However, starting from last year, the hotel applications submitted by her were all rejected by the Board. The proposed hotel under application was submitted by a reputable hotel operator who owned/developed hotels not just in Hong Kong but also in Singapore and Shanghai. The proposed hotel would be compatible with the residential neighbourhood within the “R(A)” zone.

89. Mr Wilson Chan further explained that it was clearly stated in paragraph 7.4 of the Paper that in cases where the application site was particularly conducive to hotel development or the hotel development would meet a specific planning objective, favourable consideration would be given by MPC to such applications. As mentioned above, Application No. A/K5/730 was approved by MPC taking into account the planning merits of alleviating the industrial/residential interface problem in the area. However, for the subject application, there was no specific planning objective that the proposed hotel development at the application site strived to meet.

Planning Merits

90. In response to a Member’s question on the planning merits of the proposed hotel development, Mr Wilson Chan said that whether the proposed hotel would act as a catalyst for redevelopment was not guaranteed. As regards the applicant’s claim that the provision of some landscaping in the hotel development was a planning merit, it should be noted that while there was no specific requirement for landscaping in a residential

redevelopment at the application site, a landscaping clause could be incorporated into the lease if lease modification was required.

91. Ms Keren Seddon said that there were a number of planning merits in relation to the proposed hotel development. The proposed hotel, if approved, would be the first hotel in the Sham Shui Po wholesale cluster that would help to bring tourists to the area. This was in line with the tourism policy and CE's intention to introduce the wholesale cluster to tourists. Besides, the proposed hotel would facilitate demolition of the existing dilapidated building, promote innovative architectural design and comply with all statutory requirements including building height restriction. The proposed hotel would also provide landscaping on the flat roof of the 1/F of the hotel and vertical greening to the podium design which would benefit the local residents.

92. Noting that the landscaped garden on the flat roof of the 1/F was facing the back lane but not Apliu Street, the Chairman asked if it there would bring about any positive impact on the pedestrians. Ms Keren Seddon said that the proposal to have more greening to the podium design was from CTP/UD&L, PlanD. Should the application be approved, a condition on the requirement for submission and implementation of a landscape proposal could be imposed. The applicant could provide additional vertical greening on podium to comply with the said approval condition. Mr Alan Lo supplemented that the project was only at the conceptual design stage and the submitted drawings in support of the application were indicative. Should the application be approved, a detailed landscape proposal would be submitted for approval. By referring to a sectional plan, Mr Lo said that there would be a podium fronting the main street and vertical greening could be incorporated.

Adversities associated with the Approval

93. A Member asked whether there would be any adversities if the application was approved. Mr Wilson Chan said that while approval of the application would lead to a loss of a housing site (about 240m²) providing about 40 flats, the concern was more on the setting of an undesirable precedent for other similar applications in the area. The cumulative effect of approving such applications would aggregate the shortfall in the supply of housing land. In response to the Member's enquiry on the criteria for granting

planning approval, Mr Chan reiterated that favourable consideration would be given to cases where the site was particularly conducive to hotel development or the hotel would meet a specific planning objective. Application No. A/K5/730 was approved as it could help address the industrial/residential interface problem.

Revitalisation of Sham Shui Po

94. Noting that the Sham Shui Po area was undergoing transformation, in particular with the implementation of some revitalisation projects such as SCAD, JCCAC and Mei Ho House, a Member asked whether more suitable land in the area should be allowed for commercial uses including hotel. Mr Wilson Chan said that from the district planning perspective, the supply of commercial land in Sham Shui Po was adequate, bearing in mind that the former Cheung Sha Wan Post Office site had recently been rezoned to “Commercial”. Moreover, there were four valid planning permissions for hotel developments (Applications No. A/K5/696, A/K5/718, A/K5/724 and A/K5/730). It was considered appropriate to keep monitoring the implementation progress of these approved projects before considering whether more hotel applications should be approved in the area at this stage.

[Ms Bernadette H.H. Linn left the meeting at this point.]

95. In response, Ms Keren Seddon said that the application site was the only application within the Sham Shui Po wholesale cluster. The proposed hotel was in line with the government policy to promote the wholesale cluster to tourists, which was clearly a planning objective. Besides, the application site was very conducive to hotel development as it was located next to the MTR station. The proposed hotel scheme would comply with development restrictions stipulated on the OZP including plot ratio and building height. There was no suitable “Commercial” site available in the vicinity as the nearest “Commercial” zone was already occupied by a shopping mall, namely Dragon Centre. Relevant government departments including the Transport Department and Environmental Protection Department had no objection to the subject application. She opined that each application should be considered on its individual merits.

96. Mr Alan Lo said that the proposed hotel development would act as a catalyst

for the revitalisation of the area. The area was characterised by old and dilapidated buildings with insufficient supporting facilities. Upon implementation of the proposed hotel, more tourists would be attracted to this area, thereby creating demand for supporting services such as retail shops, cafes and restaurants. This would not only enhance and diversify the local economy but also make an economic case for subsequent redevelopment in the locality. Some overseas examples such as Wythe Hotel in Brooklyn, New York, Ace Hotel near 28th Street and Broadway, New York and Murmansk in London were quoted to illustrate that the implementation of innovative projects would help revitalise the whole district. After all, the benefits brought by the hotel development to the community should be considered in the wider context and in the longer term.

The Proposed Hotel

97. In response to a Member's question about the price range of the hotel rooms, Ms Yenn Wong said that the proposed hotel would not be a luxury hotel given its location. It would be a designer hostel at a price of about US\$200 per day. Mr Alan Lo further said that their target customers were not only the new travellers from the Mainland but also the international travellers doing sourcing at the Sham Shui Po wholesale cluster. They would also target at the international visitors attending exhibitions/performances in the West Kowloon in future. The proposed hotel would cater for the needs of tourists as well as the local community.

Responses to MPC's Concerns

98. In response to a Member's enquiry on how MPC's concern on shortfall of housing land had been addressed, Ms Keren Seddon said that as there was pressing demand for various land uses such as elderly facilities, housing and tourism-related facilities, a balance should be struck among these competing land uses. While shortage of housing land was a problem, there was a trend of spreading out of tourism developments in different areas such as Sai Kung, requiring more supporting facilities. Furthermore, the application site was bought by the applicant in January 2013, and the new housing land policy was subsequently promulgated. It was unreasonable to force the applicant to change itself from an expert in the hospitality industry to a developer and to restrict the application site to residential development only. Although the planning intention of "R(A)" zone was primarily for high-density residential developments, 'Hotel' which was a

Column 2 use should be considered with justifications. The proposed hotel was well justified as the application site, being located at a convenient location, was conducive to hotel development, and the proposed hotel would provide landscaping, facilitate urban re-gentrification and enhance convenience in the locality.

Approved Hotel Applications

99. In response to a Member's question about the four valid planning permissions for hotel developments in the area, Mr Wilson Chan said that they were approved by MPC mainly on the grounds that they were compatible with the residential neighbourhood and there were no adverse infrastructural and environmental impacts on the surrounding area. In response to the Chairman's further question, Mr Chan said that the first three cases were approved before promulgation of the new housing land policy in early 2013 but the last one was approved after that. Ms Keren Seddon stressed that relevant government departments had no objection to the subject application regarding the traffic, environmental and infrastructural aspects. It was unfair that the subject application had been treated differently from the approved cases. The main issue of the subject application was related to the housing land policy but the applicant was not in a position to increase the flat production in Sham Shui Po.

100. As the applicant's representatives had no further comment to make and Members had no further question, the Chairman informed them 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 all left the meeting at this point.

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

Deliberation Session

Housing Land Policy

101. The Vice-chairman said that in view of the current shortage of housing land in meeting the pressing housing demand of the community, any applications for

non-residential uses, including hotel, within the residential zones should be carefully considered as they would reduce the housing land supply, if approved. Given that the prevailing housing land policy was to find more suitable land for residential developments, the subject application could not be supported from the policy perspective.

102. The Chairman remarked that while housing land policy was one of the planning considerations, a balance should be struck among all relevant planning considerations in deciding whether the application should be approved.

MPC's Decision

103. A Member said that the proposed hotel, if approved, would reduce housing land supply in meeting the pressing housing demand. Since early 2013, the Government had committed to identifying suitable "Government, Institution or Community" ("G/IC") sites for residential use. Under such circumstances, it would not be appropriate to allow a change from residential to non-residential use within a residential zone upon application unless with strong justifications. Since the promulgation of the new housing land policy, at least three similar applications had been rejected by MPC. Moreover, there were no overriding planning merits in the subject application to justify the proposed change of use.

Grounds for Review

104. A Member pointed out that the perception of 'blanket' rejection of all applications for non-residential uses within the "R(A)" zone was misconceived. It was clearly stated in the relevant MPC minutes that whether there were strong justifications for the proposed hotel development within the "R(A)" zone should be considered. It was also noted that a similar planning application (No. S/K5/730) was approved by MPC on 19.4.2013. As regards the applicant's proposal that mixed land uses should be considered in the Sham Shui Po area, this matter should be subject to a comprehensive review in the plan-making process. For a site-specific planning application, the local context, planning intention and the proposal itself should be the major considerations. For the subject application, the planning merit in relation to the provision of some landscaping in the hotel development was not significant. In fact, the proposed landscaping would be enjoyed more by the hotel customers than the public. Furthermore, approval of the subject application would set an undesirable precedent for similar applications in the area. The

cumulative effect of approving such applications would aggregate the shortfall in the housing land supply. Having regard to the above, this Member considered there were no strong justifications for a departure from MPC's decision. The Member suggested that a rejection reason regarding the insufficient planning merits should be included.

The Proposed Hotel

105. A Member said that the proposed hotel might not help create much employment opportunities for the local population. The major consideration should be given to whether the application site was suitable for hotel development and whether the proposed hotel was compatible with the surrounding developments. Given that the application site was located in a predominantly residential neighbourhood, the development of a hotel at the application site might be subject to local objection. This Member also suggested that the rejection reasons should be suitably revised to reflect Members' views as expressed at the meeting.

Revitalisation of Sham Shui Po

106. A Member opined that the tourism development and revitalisation of Sham Shui Po were not major planning considerations for the subject application. Instead, the major considerations should be given to whether the application site was suitable for hotel development and whether there were sufficient justifications for the proposed hotel development within the "R(A)6" zone. The Member also pointed out that according to the Notes of the OZP for "R(A)" zone, apart from residential use, the Column 1 uses were supporting or ancillary uses to residential development whereas other non-residential uses such as 'Hotel' were put under Column 2 requiring planning permission. In this regard, approval of a Column 2 use under planning application should only be supported with planning merits. Therefore, the Member did not support the review application.

107. A Member held a different view and considered that favourable consideration could be given to the subject application taking into account the following aspects. 'Hotel' was a Column 2 use within the "R(A)" zone, planning approval would be granted based on its individual merits. For instance, after the promulgation of the new housing land policy, a similar application in the same area was also approved by MPC. Given that the application site was small (providing about 40 flats) and the building age of the

existing building on site, the reduction in the total housing supply would not be significant. The Sham Shui Po area, being an old and traditional district, was undergoing transformation. SCAD, which was located at the former North Kowloon Magistracy, was one of the revitalisation projects in the area. As there was insufficient incentive for the developers to carry out comprehensive redevelopment of the area, the small scale redevelopment project should be encouraged.

108. Another Member shared the same view and said that approval of the subject application would not result in a significant reduction in total housing supply given the small size of the application site. The Member opined that the hotel, if implemented, might act as a catalyst for more commercial activities and employment opportunities, thus contributing to the vibrancy of the area. For Sham Shui Po, large scale or comprehensive redevelopment would unlikely take place in the near future. Unlike those “G/IC” sites rezoned for residential use, which were in general relatively large in size, the application site was small and the possible adverse impact on housing land supply would not be very significant. In considering that ‘Hotel’ was a Column 2 use within the “R(A)” zone, approval of the application would not set an undesirable precedent and there was no presumption against hotel development within the “R(A)” zone.

[Mr Stanley Y.F. Wong left the meeting at this point.]

109. The Chairman remarked that in considering whether a planning application should be approved, the Board should consider whether there were sufficient planning merits but not merely any possible adverse impacts arising from the proposed development.

110. A Member said that other than developing a boutique hotel at the application site, the promotion of other commercial activities could also bring vibrancy to the area. It would be more appropriate to carry out a comprehensive land use review of the area, if required. Some mixed uses might then be introduced to Sham Shui Po. Judging from a single application, it would be difficult to confirm whether the application site was an ideal location for hotel development. Since the promulgation of the new housing land policy earlier this year, there were other similar applications being rejected by MPC. It was considered inappropriate that the planning intention of the “R(A)” zone should be

jeopardised under the subject application without strong justifications.

Consideration of the S.17 Review Application

111. A Member considered that the review application could not be supported for the following reasons. Firstly, the proposed hotel was not very compatible with the predominantly residential developments in the area. Secondly, even if the Sham Shui Po area had to be introduced to the tourists, it did not necessarily mean that the application site should be redeveloped into a hotel. Thirdly, the application site was not particularly conducive to a hotel development having regard to its site context and its location at an inner street. The circumstances of the subject application were rather different from the approved cases.

112. A Member pointed out that this was a s.17 review application but the applicant had not addressed the rejection reasons raised by MPC properly. The justifications advanced by the applicant's representatives were not really specific to the application site but might be generally applicable to other sites in Sham Shui Po. For the subject application, there were insufficient justifications to support a departure from MPC's decision. Another Member concurred and said that MPC's decision should be upheld.

113. A Member noted that there were already four proposed hotels in the area approved by MPC. All of them were located near major roads at the peripheries of Sham Shui Po. Not only was the proposed hotel not in line with the housing land policy but the applicant also failed to provide sufficient planning merits to justify the proposed hotel development within the subject "R(A)6" zone. In this regard, this Member considered that there was no reason to overrule MPC's decision.

Conclusion

114. The Chairman summarised Members' views that the different views of two Members on the application from the revitalisation perspective were noted. However, taking into account all relevant considerations, a majority of the Members considered that the application should be rejected. Other than the two rejection reasons given by MPC, an additional rejection reason would be added to reflect that there were insufficient planning merits to justify the proposed hotel development within the subject "R(A)6" zone.

Members agreed.

115. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and agreed that they should be suitably amend to reflect Members' views as expressed at the meeting. The reasons were:

- “(a) the application site is located in a predominantly residential neighbourhood. Given the current shortfall in housing supply, the site should be developed for its zoned use. The proposed hotel development would result in reduction of sites for residential developments, which would affect the supply of housing land in meeting the pressing housing demand over the territory;
- (b) there are insufficient planning merits to justify the proposed hotel development within the subject “Residential (Group A)6” zone; and
- (c) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would aggregate the shortfall in the supply of housing land.”

Tuen Mun and Yuen Long District

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-HT/856

Temporary Open Stoarge of Consturction Materials and Warehouse

with Ancillary Office for a Period of 3 Years in “Agriculture” Zone,

Lots 126 (Part), 128 and 230 (Part) in D.D. 128, Ha Tsuen, Yuen Long

(TPB Paper No. 9475)

[The hearing was conducted in Cantonese.]

Presentation and Question Session (Request for Deferment)

116. The Secretary said that Ms Janice W.M. Lai had declared interest as her spouse was a shareholder of a company which owned two pieces of land in Ha Tsuen. Members noted that Ms Lai had already left the meeting.

117. Mr W.S. Lau, District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), Planning Department (PlanD) was invited to the meeting at this point. The Secretary said that the applicants had been invited to attend the meeting but they did not turn up. The Town Planning Board (the Board) agreed that the meeting should proceed in the absence of the applicants.

118. The Secretary said that on 12.11.2013, i.e. three days before the meeting, the applicants' representative sent an email to the Secretariat stating that he only received the TPB paper that day and requesting the Board to defer making a decision on the review application for 14 working days in order to allow time for him to prepare document(s) and to attend the meeting. The email was tabled at the meeting for Members' consideration. In a subsequent telephone conversation, the applicants' representative also claimed that he did not know the meeting date before he received the relevant TPB paper.

119. The Secretary further said that according to the Secretariat's record, the applicants' representative had been informed that the meeting would be held on 15.11.2013 via a letter of 5.9.2013. The relevant TPB paper and covering letter were sent to the applicants' representative by courier on 8.11.2013 (i.e. seven days before the meeting) according to the Board's procedure and practice. When the courier failed to locate the applicants' representative's place and contacted the applicants' representative by phone on 8.11.2013, the applicants' representative said that his place was difficult to find and requested that the document be sent to him by post. As such, the document was returned to the Secretariat and was sent to the applicants' representative by post on 11.11.2013 as per his request.

120. The Secretary highlighted that part of the application site was subject to planning enforcement action (No. E/YL-HT/793) against unauthorised development (UD)

involving storage use. The remaining part of the site also involved a suspected UD with storage and parking of vehicle uses and planning enforcement action would be taken subject to collection of evidence.

121. In response to a Member's enquiry, the Secretariat informed that they had advised the applicants' representative to attend this meeting to explain to the Board the reasons for his request for deferment, and that if he did not attend the meeting, the Board might proceed to consider the review application in his absence.

122. A Member asked whether the courier had fully discharged their duties in delivering the document to the applicants' representative as the post office would be able to find the address but the courier could not. The Secretariat provided Members with the details regarding the delivery of the Paper on the case. The address of the applicants' representative was Tan Kwai Tsuen, Hung Shui Kiu, Yuen Long. The document was arranged to be sent to the applicants' representative on 8.11.2013 (i.e. seven days before the meeting). As shown on the courier's report, when the courier called the applicants' representative due to failure to find his place on 8.11.2013, the applicants' representative said that his place was difficult to find and requested that the document be sent to him by post, and the applicants' representative refused to receive the document. As such, the document could not reach the applicants' representative on 8.11.2013. It appeared that the courier had made an effort to deliver the document but the applicants' representative did not tell the courier how to get to his place.

123. A Member asked whether the applicants' representative could request for collecting the document at the Secretariat in North Point Government Offices. The Secretary answered in the affirmative. However, the applicants' representative did not make such a request.

Deliberation Session (Request for Deferment)

124. The Chairman asked Members to consider whether the applicants' representative's request for deferment of 14 working days should be acceded to.

125. A Member said that the relevant TPB paper was sent to the applicants'

representative on 8.11.2013. While the applicants' representative was aware that the document was being sent to him by the courier on 8.11.2013, he did not tell the courier how to get to his place but asked that the document be sent to him by post instead. When he received the relevant TPB paper on 12.11.2013, he then claimed that there was insufficient time for him to prepare the document(s) and to attend the meeting. In fact, he had been informed of the meeting date before. In view of the above circumstances, the Member considered that the request for deferment was not justifiable.

126. A Member considered that the document had already been sent to the applicants' representative seven days before the meeting according to the Board's procedure and practice. The Member pointed out that the village address might not be easily located by the courier and thus the action taken by the courier was considered reasonable and acceptable. In this regard, this Member did not support the request for deferment.

127. A Member noted that that the applicants' representative had already been informed of the meeting date before. When the courier contacted the applicants' representative on 8.11.2013, the applicants' representative should know very well that the document would reach him later than originally scheduled when he requested for delivery of the document by post. That was the reason why the applicants' representative only received the document on 12.11.2013. The Member pointed out that the relevant TPB paper was not a complicated one. There should be sufficient time for the applicants' representation to read the relevant TPB paper and prepare for attending the meeting even though it was only received on 12.11.2013. In view of the above, this Member considered that there were no reasonable grounds to support the request for deferment and agreed that the Board should proceed to the consideration of the review application.

128. The Secretary said that the Board should handle the subject request for deferment with care as it would likely set a precedent for other cases in future.

129. The Chairman said that the major consideration should be given to the facts of the subject case. Members were invited to consider whether the delivery process handled by the courier was a reasonable ground for the request for deferment.

130. Noting that Tan Kwai Village was itself a large village in Yuen Long which was easily accessible, a Member remarked that the failure for the courier to deliver the document to the applicants' representative was not known.

131. In response to a Member's enquiry on whether the applicants' representative specifically requested for seven days for preparation for attending the meeting, the Secretary said that the applicants' representative requested via his email of 12.11.2013 the Board to defer making a decision on the review application for 14 working days. In a subsequent telephone conversation, the applicants' representative claimed that he did not know the meeting date before he received the relevant TPB paper. Nevertheless, this allegation was not true as the applicants' representative had been informed of the meeting date via a letter dated 5.9.2013.

132. A Member pointed out that if the applicants' representative really wanted to receive the relevant TPB paper seven days before the meeting, he would either tell the courier how to find his place or pick up the document at the Secretariat's office direct rather than requesting for delivery of the document by post. Given the above facts, if the request for deferment was accepted by the Board, it would set an undesirable precedent for other cases in future. The proof of service should be the date of delivering and not the date of receiving the document. It would be difficult for the Secretariat to ensure that the relevant document was actually received by the recipient, particularly when the recipient was unavailable.

133. After deliberation, the Board decided not to accede to the request for deferment as the applicants' representative had failed to provide reasonable grounds for the request for deferment. As sufficient notice had been given to invite the applicants to attend the meeting, the Board also decided to proceed to consider the review application at this meeting in their absence.

[Dr C.P. Lau and Mr Roger K.H. Luk left the meeting at this point.]

Presentation and Question Session (Review Application)

134. The Chairman then invited DPO/TMYL to brief Members on the review

application.

135. With the aid of a Powerpoint presentation, Mr W.S. Lau presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicants sought planning permission for temporary open storage of construction materials, warehouse and office for a period of three years at the application site which fell within an area zoned “Agriculture” (“AGR”) on the approved Ha Tsuen Outline Zoning Plan (OZP) No. S/YL-HT/10;
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) on 19.7.2013 and the reasons were:
 - (i) the development was not in line with the planning intention of the subject “AGR” zone which was intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification to merit a departure from such planning intention, even on a temporary basis;
 - (ii) the development was not in line with the Town Planning Board Guidelines No. 13E (TPB PG-No. 13E) for Application for Open Storage and Port Back-up Uses in that no previous approval had been granted for the site, there were adverse departmental comments on the agricultural, landscape and environmental aspects, and the development would have adverse, agricultural, landscape, traffic and environmental impacts on the surrounding areas. There was insufficient information submitted to demonstrate that the proposed development would not generate such adverse impacts; and

- (iii) approval of the application, even on a temporary basis, would set an undesirable precedent for applications for other developments within the “AGR” zone, the cumulative effect of which would result in a general degradation of the environment of the “AGR” zone;
- (c) the applicants had not submitted any written representation in support of the review application;
- (d) the application site, having an area of about 2,841m², was currently used for open storage of recyclable material and electronic parts (Portion A), parking of vehicles, vehicle repair workshop and storeroom (Portion B and Portion C). It was accessible from Ping Ha Road via Fung Kong Tsuen Road and Kai Pak Ling Road and a local track. The surrounding areas were mainly unused and vacant land, vegetated land, open storage yards and vehicle parks, with some of which were suspected UDs;
- (e) part of the application site was subject to planning enforcement action (No. E/YL-HT/793) against UD involving storage use. An Enforcement Notice (EN) was issued to the concerned parties on 30.7.2013 requiring the discontinuance of the UD. As the requirements of EN were not complied with upon expiry of the compliance period on 30.9.2013, the concerned parties were subject to prosecution action under the Town Planning Ordinance;
- (f) previous applications – there were two previous applications (No. A/YL-HT/27 and A/YL-HT/60) at the application site for temporary open storage of construction machinery, which were rejected by the Board upon review on 9.1.1998 and RNTPC on 13.11.1998 respectively. The rejection reasons were mainly that the development was not in line with the planning intention of the “AGR” zone; there was no information to demonstrate that the development was compatible with the surrounding areas and had significant adverse environmental, drainage

and traffic impacts; and the approval of the application would set an undesirable precedent for similar applications, the cumulative effect of which would result in further degrading of the environment;

- (g) similar application – there was a similar application (No. A/YL-HT/744) within the same “AGR” zone, which was rejected by RNTPC on 2.9.2011 with similar reasons;

- (h) departmental comments – the departmental comments were detailed in paragraph 4 of the Paper. The District Lands Officer/Yuen Long, Lands Department advised that the application site was situated on Old Schedule Agricultural Lots granted under the Block Government Lease upon which no structure was allowed to be erected without prior approval from his office. No permission had been given to the structures specified in the subject planning application. The Director of Environmental Protection (DEP) did not support the application as there were sensitive uses along the access roads (i.e. Fung Kong Road and Ping Ha Road) and environmental nuisance from the development was expected. The applicants should follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by DEP to minimise any potential environmental nuisance. The Commissioner for Transport (C for T) commented that the applicants should provide relevant traffic survey data for the estimated usage with breakdown of the vehicle types based on development of similar natures and estimate the anticipated average and peak trip generation and attraction hourly rate for the subject development. The ingress/egress to the site from public road should be clearly indicated. Sufficient manoeuvring spaces should be provided within the application site. No vehicle was allowed to queue back to public road or reverse onto/from the public road. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD objected to the review application for the reasons that the site was situated in a rural landscape character of farmland and wooded areas but disturbed by open storage use; the open storage use was not compatible with the surrounding rural character;

compared with the aerial photos taken in 2007, some existing trees and vegetation were removed; approval of the application would likely encourage more open space use in the area leading to further deterioration to the rural landscape character; and no tree preservation and landscape proposals were submitted. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as agricultural activities in the vicinity were still active and the application site was considered having a high potential agricultural rehabilitation in terms of greenhouse cultivation and nursery;

- (i) public comment – a public comment (submitted by Designing Hong Kong Limited) objecting to the review application was received. The objection reasons were that no impact assessment on traffic and environment was submitted; there were already sufficient space for open storage uses; and it would be difficult to revert the site for agricultural use once the application was approved; and

- (j) PlanD's views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 6 of the Paper. Since there had been no major changes in the planning circumstances of the case, the planning considerations and assessments given at the s.16 application stage remained valid, which were summarised below:
 - (i) the site fell within Category 3 areas under TPB PG-No. 13E. Applications would normally not be favourably considered unless the application sites were covered by previous planning approvals;

 - (ii) the development did not meet TPB PG-No. 13E since no previous approval for open storage use had been granted for the site; there were adverse comments from C for T, DAFC, CTP/UD&L, PlanD and DEP; and there was insufficient information submitted to demonstrate that the applied use would

not have adverse traffic, agricultural, landscape and environmental impacts on the surrounding areas;

- (iii) the development was not in line with the planning intention of the subject “AGR” zone which was intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. There was no strong planning justification to merit a departure from such planning intention, even on a temporary basis;
- (iv) DAFC did not support the review application from the agricultural point of view considering that the application site was of high potential for agricultural rehabilitation;
- (v) the applied use was incompatible with the rural environment in which the site was located;
- (vi) RNTPC/the Board had not approved any application for temporary storage/open storage uses within the subject “AGR” before; and
- (vii) approval of the application, even on a temporary basis, would set an undesirable precedent for applications for other developments within the “AGR” zone, the cumulative effect of which would result in a general degradation of the environment of the “AGR” zone.

136. As Members had no question on the application, the Chairman thanked DPO/TMYL for attending the meeting. Mr W.S. Lau left the meeting at this point.

Deliberation Session (Review Application)

137. Members noted that the applicants had not submitted any further information in support of the review application. The Chairman concluded Members' views that the review application should not be approved as the proposed development was not in line with the planning intention of the "AGR" zone; the development was not in line with TPB PG-No. 13E; and approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications.

138. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the development is not in line with the planning intention of the subject “Agriculture” (“AGR”) zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification to merit a departure from such planning intention, even on a temporary basis;
- (b) the development is not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that no previous approval has been granted for the site, there are adverse departmental comments on the agricultural, landscape and environmental aspects, and the development would have adverse, agricultural, landscape, traffic and environmental impacts on the surrounding areas. There is insufficient information submitted to demonstrate that the proposed development would not generate such adverse impacts; and
- (c) approval of the application, even on a temporary basis, would set an undesirable precedent for applications for other developments within the “AGR” zone, the cumulative effect of which will result in a general degradation of the environment of the “AGR” zone.”

Agenda Item 6

[Open Meeting]

Request for Deferment of Review of Application No. A/TM-LTY/249
Proposed Comprehensive Development (Flat, House, Village Office and
Public Open Space) in “Comprehensive Development Area” and “Green Belt” Zones, Lots
837 RP, 839 S.A, 841, 1035 RP, 1037 RP, 2527 S.E and 2527 S.F in D.D. 130 and
Adjoining Government Land, Lam Tei, Tuen Mun, New Territories
(TPB Paper No. 9474)

[The meeting was conducted in Cantonese.]

139. The application was submitted by Gain Million Development Limited and Fordmax Development Limited, two subsidiaries of Henderson Land Development Company Limited (HLD), and Kenneth To and Associates Limited (KTA), ADI Limited (ADI), MVA Hong Kong Limited (MVA), Westwood Hong & Associates Limited (WHA) were the consultants of the applicants. The following Members had declared interests in this item:

- | | |
|------------------------|--|
| Mr Ivan C.S. Fu | - had business dealings with HLD, ADI, MVA and WHA |
| Ms Janice W.M. Lai | - had business dealings with HLD and ADI |
| Mr Dominic K.K. Lam | - had business dealings with HLD and KTA |
| Mr Patrick H.T. Lau | - had business dealings with KTA |
| Dr W.K. Yau | - being Chief Executive Officer of Tai Po Environmental Association Ltd. which had received donation from HLD |
| Mr Clarence W.C. Leung | - being the Director of an non-governmental organisation that recently received a private donation from a family member of the Chairman of HLD |
| Mr Roger K.H. Luk | - being a member of the Council of the Chinese University of Hong Kong (CUHK) which received donation from a |

	family member of the Chairman of HLD
Professor P.P. Ho	- being an employee of CUHK which receives donation from a family member of the Chairman of HLD
Professor S.C. Wong] being employees of the University of
Mr F.C. Chan] Hong Kong which received donation
Dr Wilton W.T. Fok] from a family member of the Chairman of HLD

140. As the item was procedural in nature and no discussion would be involved, Members agreed that the above Members could stay in the meeting. Members noted that Ms Lai, Mr Lau and Dr Fok had already left the meeting, and Dr Yau, Mr Leung and Professor Ho had tendered apology for being unable to attend the meeting.

141. The Secretary said that on 22.10.2013, the applicants' representative wrote to the Secretary of the Town Planning Board (the Board) requesting the Board to defer making a decision on the review application for a period of three months in order to allow sufficient time for the applicants to address the comments of the Lands Department. This was the first request for deferral by the applicants for the review application.

142. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33) in that the applicants needed more time to address the departmental comments, the deferment period was not indefinite and the deferment would not affect the interest of other relevant parties. Members also noted that according to TPB PG-No. 33, the application would normally be given two months for preparation of submission of further information. Members agreed to allow a deferment period of two months, instead of three months sought.

143. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicants 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 applicants. The applicants should be advised that the Board had allowed a maximum

period of two months for preparation of submission of further information and no further deferment would be granted unless under very special circumstances.

Procedural Matters

Agenda Item 7

[Open meeting]

Submission of the Draft Tsuen Wan Outline Zoning Plan

No. S/TW/30A to the Chief Executive in Council for Approval

under Section 8 of the Town Planning Ordinance

(TPB Paper No. 9493)

[The meeting was conducted in Cantonese.]

144. The Secretary said that Ms Christina M. Lee has declared interest in this item as her company had properties in the Tsuen Wan area. As the item was procedural in nature and no discussion would be involved, Members agreed that Ms Lee could stay in the meeting. Members noted that Ms Lee had already left the meeting.

145. The Secretary briefly introduced the Paper. She said that on 24.2.2012, the draft Tsuen Wan Outline Zoning Plan (OZP) (No. S/TW/29) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, seven representations were received. On 4.5.2012, the representations were published for three weeks for public comments, and 620 comments were received. On 14.9.2012, after giving consideration to the representations and comments, the Town Planning Board (the Board) decided to propose an amendment to the OZP to meet one of the representations. On 12.10.2012, the concerned proposed amendment was published for three weeks for further representations. No further representation was received. On 30.11.2012, the Board amended the draft OZP No. S/TW/29 by the proposed amendment.

146. On 15.1.2013, the Chief Executive agreed to extend the statutory time limit for the Board to submit the draft OZP to the Chief Executive in Council (CE in C) for

approval for six months from 24.1.2013 to 24.7.2013 as more time is required for the Board to complete the land use review of the “Undetermined” zone at TWTL 393.

147. On 16.5.2013, the draft Tsuen Wan OZP No. S/TW/30 was exhibited for public inspection under section 7 of the Ordinance. During the two-month exhibition period, 24 representations were received. On 26.7.2013, the representations were published for three weeks for public comments, and no comment was received. On 18.10.2013, after giving consideration to the representations, the Board decided not to uphold the representations.

148. As the representation consideration process has been completed, the OZP is ready for submission to the CE in C for approval.

149. After deliberation, the Board:

- (a) agreed that the draft Tsuen Wan Plan No. S/TW/30A and its Notes were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Tsuen Wan OZP No. S/TW/30A as an expression of the planning intention and objectives of the Board for the draft OZP and issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 8

[Open meeting]

Information Note and Hearing Arrangement for Consideration of Representation
in respect of the Draft Aberdeen & Ap Lei Chau Outline Zoning Plan No. S/H15/28

(TPB Paper No. 9513)

[The meeting was conducted in Cantonese.]

150. The Secretary briefly introduced the Paper. She said that on 12.7.2013, the draft Aberdeen & Ap Lei Chau Outline Zoning Plan (OZP) No. S/H15/28 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, one representation (submitted by a Southern District Council Member) was received. The representation was related to the rezoning of a site at the junction of Wong Chuk Hang Road and Yip Kan Street from “Government, Institution or Community (1)” to “Other Specified Uses (2)” annotated “Business”.

151. Since there was only one representation, it was recommended that the representation should be considered by the full Town Planning Board (the Board). The hearing could be accommodated in the Board’s regular meeting and a separate hearing session would not be necessary. The arrangement would not delay the completion of the representation consideration process. Consideration of the representation by the full Board was tentatively scheduled for 20.12.2013.

152. After deliberation, the Board agreed that the representation should be heard by the full Board in the manner as proposed in paragraph 2.3 of the Paper.

Agenda Item 9

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

153. There being no other business, the meeting closed at 5:50 p.m.