

**Minutes of 1052nd Meeting of the
Town Planning Board held on 28.2.2014**

Present

Permanent Secretary for Development
(Planning and Lands)

Mr Thomas Chow

Chairman

Mr Stanley Y.F. Wong

Vice-Chairman

Professor S.C. Wong

Mr Timothy K.W. Ma

Mr Maurice W.M. Lee

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Mr Roger K.H. Luk

Ms Anita W.T. Ma

Dr W.K. Yau

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Ms Christina M. Lee

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr F.C. Chan

Professor K.C. Chau

Director of Planning

Mr K.K. Ling

Deputy Director of Lands (General)

Mr Jeff Y.T. LAM

Deputy Director/Environmental (1)

Environmental Protection Department

Mr C.W. Tse

Assistant Director (2), Home Affairs Department

Mr Eric K.S. Hui

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Professor Edwin H.W. Chan

Mr Rock C.N. Chen

Ms Bonnie Chan

Professor P.P. Ho

Mr Laurence Li

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

In Attendance

Assistant Director of Planning/Board
Ms Lily Y. M. Yam

Chief Town Planner/Town Planning Board
Mr Louis K.H. Kau (a.m.)

Senior Town Planner/Town Planning Board
Ms Brenda W. Y. Sin (a.m.)
Ms Doris S. Y. Ting (p.m.)

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 1051st Meeting held on 14.2.2014

[The meeting was conducted in Cantonese.]

1. The minutes of the 1051st meeting held on 14.2.2014 were confirmed without amendments.

Agenda Item 2

Matters Arising

[The meeting was conducted in Cantonese.]

(i) Abandonment of Town Planning Appeals

- (1) Town Planning Appeal No. 3 of 2010 (3/10)

Proposed Flat, Public Transport Terminus and Shop and Services (Proposed Amendments to an Approved Scheme) in “Comprehensive Development Area (1)” and “Open Space” zones, Former Bus Depot at 391 Chai Wan Road, a section of Sheung On Street and the Adjoining Bus Terminus, Chai Wan
(Application No. A/H20/159)

2. The Secretary reported that an appeal had been abandoned by the appellant of his own accord. Town Planning Appeal No. 3/2010 was received by the Appeal Board Panel (Town Planning) (ABP) on 5.3.2010 against the decision of the Town Planning Board (the Board) on 11.12.2009 to reject on review an application (No. A/H20/159) for proposed flat, public transport terminus and shop and services (proposed amendments to an approved scheme) in the “Comprehensive Development Area (1)” and “Open Space” zones on the Chai Wan Outline Zoning Plan. It was abandoned by the appellant on 5.2.2014. On 7.2.2014, ABP formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

- (2) Town Planning Appeals No. 8 of 2012 to 12 of 2012 (8/12 to 12/12)
Proposed Houses (New Territories Exempted Houses (NTEHs) – Small Houses)
in areas designated as “Unspecified Use”, Government Land in D.D. 255, Pak
Tam Au, Sai Kung North, New Territories
(Applications No. A/DPA/NE-TKP/7-10 and 13)
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3. The Secretary reported that five appeals had been abandoned by the appellants of their own accord. Town Planning Appeals No. 8/2012 to 12/2012 were received by ABP on 10.9.2012 against the decisions of the Board on 22.6.2012 to reject on review five applications for proposed ‘NTEHs – Small Houses’ in areas designated as “Unspecified Uses” on the approved To Kwa Peng and Pak Tam Au Development Permission Area Plan No. DPA/NE-TKP/2. Town Planning Appeals No. 8/12 to 11/12 were abandoned by the appellants on 9.2.2014, while Town Planning Appeal No. 12/12 was abandoned by the appellant on 20.1.2014. On 30.1.2014 and 17.2.2014, ABP formally confirmed that the appeals No. 8/12 to 11/12 and 12/12 were abandoned respectively in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

- (3) Town Planning Appeal No. 4 of 2013 (4/13)
Proposed Columbarium and Residential Institution (Quarters) in Redevelopment
Proposal of Gig Lok Monastery in “Government, Institution or Community”
zone, Lot 2011 (Part) in D.D. 132 and Adjoining Government Land, Gig Lok
Monastery, Tuen On Lane, Tuen Fu Road, Fu Tei, Tuen Mun, New Territories
(Application No. A/TM/419)
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4. The Secretary reported that an appeal had been abandoned by the appellant of his own accord. Town Planning Appeal No. 4/2013 was received by ABP on 19.4.2013 against the decision of the Board on 1.2.2013 to reject on review an application (No. A/TM/419) for proposed columbarium and residential institution (quarters) in the “Government, Institution or Community” zone on the Tuen Mun Outline Zoning Plan. It was abandoned by the appellant on 6.2.2014. On 10.2.2014, ABP formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

Appeal Statistics

5. The Secretary reported that as at 28.2.2014, 14 cases were yet to be heard by ABP. Details of the appeal statistics were as follows:

Allowed	:	31
Dismissed	:	131
Abandoned/Withdrawn/Invalid	:	177
Yet to be Heard	:	14
Decision Outstanding	:	1
Total	:	354

(ii) Approval of Draft Outline Zoning Plan (OZP)

6. The Secretary reported that on 18.2.2014, the Chief Executive in Council (CE in C) approved the draft Wan Chai North OZP No. S/H25/3A (to be renumbered as S/H25/4) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance). The approval of the OZP was notified in the Gazette on 28.2.2014.

(iii) Reference Back of Approved OZPs

7. The Secretary reported that on 11.2.2014, the CE in C referred the approved Tong Yan San Tsuen OZP No. S/YL-TYST/10 to the Board for amendment under section 12(1)(b)(ii) of the Ordinance.

8. The Secretary also reported that on 18.2.2014, the CE in C referred the following approved OZPs to the Board for amendment under section 12(1)(b)(ii) of the Ordinance:

- (a) Shek Kip Mei OZP No. S/K4/27; and
- (b) Shap Sz Heung OZP No. S/NE-SSH/9.

9. The reference back of the above three OZPs was notified in the Gazette on

28.2.2014.

[The Vice-Chairman arrived to join the meeting at this point.]

Tsuen Wan and West Kowloon District

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K5/733

Proposed Shop and Services (Supermarket) in “Residential (Group E) 2” Zone, Portion of G/F, 350 – 360 Fuk Wing Street, Cheung Sha Wan (TPB Paper No. 9548)

[The hearing was conducted in Cantonese.]

10. The Secretary reported that the application was submitted by A.S. Watson Group (HK) Limited (being a subsidiary of Hutchison Whampoa Limited (Hutchison Whampoa)), with Ove Arup & Partners Hong Kong Limited (Ove Arup) as the consultant of the applicant. The following Members had declared interests in this item:

Mr Ivan C.S. Fu	-	having business dealings with Hutchison Whampoa and Ove Arup
Mr Patrick H.T. Lau	-	having business dealings with Ove Arup
Mr Dominic K.K. Lam	-	having business dealings with Ove Arup
Professor S.C. Wong	-	being a traffic consultant of Ove Arup and the Director of the Institute of Transport Studies of which some activities of the Institute were sponsored by Ove Arup

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

11. Members considered that the interest of Mr Ivan C.S. Fu was direct and agreed

that he should withdraw from the meeting for this item. Members considered that Mr Patrick H.T. Lau, Mr Dominic K.K. Lam and Professor S.C. Wong had no direct involvement in the subject application. The meeting agreed that these Members should be allowed to stay in the meeting. Members noted that Mr Dominic K.K. Lam and Professor S.C. Wong had not yet arrived at the meeting.

[Mr Ivan C.S. Fu left the meeting temporarily at this point.]

Presentation and Question Session

12. The following representatives of the Planning Department (PlanD) and the Fire Services Department (FSD), and the applicant's representatives were invited to the meeting at this point:

Mr Wilson Chan	-	District Planning Officer/Tsuen Wan and West Kowloon, PlanD (DPO/TWK, PlanD)
Mr Philip Chum	-	Senior Town Planner/Tsuen Wan and West Kowloon, PlanD
Mr Chan Kam-fai	-	Senior Divisional Officer (New Projects), FSD
Mr Wong Yuk-ping	-	Assistant Divisional Officer (New Projects), FSD
Ms Yeung Wing Shan, Theresa)	
Ms Lau Wai Cheung)	
Mr Yeung Siu Wa)	Applicant's representatives
Mr Ng Yue Fei)	
Ms Tse Chun Yee)	
Mr So Chun Wah)	

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

14. With the aid of a Powerpoint presentation, Mr Wilson Chan, DPO/TWK made the following main points as detailed in the Paper:

The Application

- (a) on 5.4.2013, the applicant sought planning permission for a proposed ‘Shop and Services (Supermarket)’ at the application premises (the premises);
- (b) on 6.9.2013, the Metro Planning Committee (MPC) of the Town Planning Board (the Board) rejected the application for the following reasons :
 - (i) the total floor area for the proposed ‘Shop and Services (Supermarket)’ use exceeded the maximum permissible limit of 230m² applicable to the subject industrial building without a sprinkler system, which was not acceptable to the Director of Fire Services (D of FS) from the fire safety point of view; and
 - (ii) approval of the application would set an undesirable precedent for similar applications, thereby resulting in adverse fire safety impact on such industrial buildings not equipped with a sprinkler system.
- (c) the justifications put forth by the applicant in support of the review application were summarised as follows:
 - (i) the proposed supermarket was in compliance with the Fire Safety Ordinance which was the only statutory requirement that was applicable to the subject industrial building. The Town Planning Board Guidelines for Development within “Other Specified Uses (Business)” (“OU(B)”) Zone (TPB PG-No. 22D) was not applicable to the premises which was currently zoned “Residential (Group E) 2” (“R(E)2”) on the Cheung Sha Wan Outline Zoning Plan (OZP). Fire safety installation would be provided in accordance with the Fire Safety Ordinance to cater for situation of emergencies. A sprinkler system with fire alarm signals was proposed to be installed on the entire G/F of the subject industrial building (including portion beyond the premises);

- (ii) the proposed supermarket was in line with the planning intention of the “R(E)2” zone which was intended primarily for phasing out of the existing uses (redevelopment or conversion) for residential use on application to the Board;
 - (iii) the proposed supermarket was also compatible with the land uses and existing character of the surrounding area and would serve the need of the residential neighbourhood;
 - (iv) no adverse traffic and environmental impacts were anticipated as the proposed supermarket was a small-scale, clean business use serving mainly the local neighbourhood; and
 - (v) the approval would not set an undesirable precedent. There was a supermarket with floor area larger than 230m² on G/F of Full View Factory Building (50-52 Tong Mi Road, Tai Kok Tsui) which was not entirely covered by a sprinkler system;
- (d) the premises (about 460m²) was situated on the G/F (portion) of an existing industrial building at the junction of Fuk Wing Street and Wing Lung Street and currently vacant (previously used as a warehouse). The subject building was a five-storey (including R/F) industrial building (with occupation permit issued by the Building Authority in 1961) not equipped with a sprinkler system;
- (e) previous application – there was no previous application on the premises;
- (f) similar application – there was no similar application for shop and services use within “R(E)” zone in Cheung Sha Wan;
- (g) departmental comments - the departmental comments were summarised in paragraph 5 of the Paper. D of FS objected to the application. He was of the view that as the premises was within an industrial building, reference

could be made to the relevant considerations in TPB PG-No. 22D promulgated in September 2007, particularly with respect to the aggregate commercial floor area limit on the ground floor of industrial/industrial-office building in relation to fire safety. The subject industrial building should be subject to a maximum permissible limit of 230m² for aggregated commercial floor area on G/F since the building was not protected by a sprinkler system. For avoidance of doubt, only if the entire building was protected by a sprinkler system, should the industrial building be subject to a maximum permissible limit of 460m². The proposal for a supermarket there could not be accepted as it exceeded the maximum permissible limit of 230m². If the application was approved, the approval would not detract owners'/occupiers' responsibilities in compliance with any fire safety improvement works required under the Fire Safety (Commercial Premises) Ordinance, Chapter 502, Laws of Hong Kong (Cap. 502), ("An Introduction to the Fire Safety (Commercial Premises) Ordinance Cap. 502" and Schedule 2 & 3 of Cap. 502 refer). Regarding the supermarket on G/F of Full View Factory Building at 50-52 Tong Mi Road, which was an existing industrial building of 11 storeys completed in 1975, FSD issued a fire safety direction to the owner of the premises in view of the use of supermarket under the purview of the Fire Safety (Commercial Premises) Ordinance, Cap 502;

- (h) public comment - on 11.10.2013, the review application was published for public inspection. During the statutory public inspection period, no public comment was received. On 13.12.2013, the applicant's further submission on the supporting grounds for the review was published for public inspection. During the statutory public inspection period, no public comment was received;
- (i) PlanD's views - PlanD did not support the application based on the assessments as detailed in paragraph 7 of the Paper, which were summarised as follows:
 - (i) there was no new fire safety proposal to address the MPC's rejection

reasons;

- (ii) as the premises was within an industrial building, reference could be made to the relevant considerations in TPB PG-No. 22D promulgated in September 2007. Given that a sprinkler system was provided for the G/F only rather than the entire building and the floor area of the proposed supermarket exceeded the maximum permissible limit of 230m², D of FS maintained his objection to the application from the fire safety point of view; and
- (iii) the supermarket on G/F (with floor area larger than 230m²) of Full View Factory Building quoted by the applicant could not be regarded as a precedent case as it was not a case of planning permission.

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

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

[Professor S. C. Wong, Mr Clarence W. C. Leung, Mr H. W. Cheung and Mr Dominic K. K. Lam arrived to join the meeting at this point.]

16. With the aid of a Powerpoint presentation, Ms Yeung Wing Shan, Theresa, made the following main points:

- (a) the reasons for rejection were in relation to TPB PG-No. 22D. It should only be applicable for development within "OU(Business)" zone and it was technically not applicable to the premises which was within an industrial building currently zoned "R(E)2" on the OZP;
- (b) fire service installations (FSI) would be provided in accordance with the Fire Safety (Commercial Premises) Ordinance issued by FSD which required the provision of an improvement on FSI and equipment of

automatic sprinkler system, automatic cut-off device for mechanical ventilation system, emergency lighting, fire hydrant and hose reel system, manual fire alarms, and portable fire extinguishers. On 27.7.2013 and 29.11.2013, the applicant submitted FSI proposal to PlanD and FSD for consideration. Comments of FSD had not yet been received;

- (c) there was an existing supermarket with an area larger than 230m² currently in operation on G/F of Full View Factory Building at 50-52 Tong Mi Road, where sprinkler protection was provided on G/F of the building only;
- (d) should the application be approved by the Board, the applicant would endeavor to comply with an approval condition on submission and implementation of fire safety measures in the premises before operation of the proposed use to the satisfaction of D of FS, so as to ensure appropriate control on the fire safety aspect; and
- (e) meanwhile, the applicant would apply for relevant food licence from the Food and Environmental Hygiene Department, which required compliance with the Code of Practice for Fire Safety in Buildings 2011, and Fire Safety (Commercial Premises) Ordinance as well. Upon implementation of fire safety measures by registered FSI contractors, FSD would issue fire certificate after site checking. The applicant was also required to obtain a supermarket licence before operation.

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

18. In response to two Members' questions in relation to the supermarket on G/F of Full View Factory Building and the maximum permissible limit of 230m² for aggregate commercial floor area of G/F in industrial buildings in accordance with TPB PG-No. 22D, Mr Wilson Chan said that the current supermarket use was not in line with the zoning of the site and not covered by any valid planning permission. Under the provision of the Town Planning Ordinance (the Ordinance), the Planning Authority had no enforcement power in

the urban area. Enforcement action would have to mainly rely on the lease and Buildings Ordinance. According to the Lands Department, the supermarket use at the premises was not in contravention of the lease conditions which permitted both industrial and commercial uses. According to the Buildings Department (BD), no building plans for the supermarket had been submitted to BD for approval. In terms of zoning, that premises was under "OU(Business)" zone while the premises in the subject application was under "R(E)" zone. Mr Wilson Chan also said that although there was no specific Town Planning Board Guidelines concerning with use or development within "R(E)" zone, since the application involved the use of the ground floor of an existing industrial building for 'Shop and Services', in assessing the subject application, reference could be made to the relevant considerations in TPB PB-No. 22D, particularly with respect to the aggregate commercial floor area limit on the ground floor in relation to fire safety.

19. A Member asked FSD to explain why there were different treatments for the premises in the subject application and the premises in Full View Factory Building despite that both were located within existing industrial buildings. In response, Mr Chan Kam-fai said that the Fire Safety (Commercial Premises) Ordinance was applicable to prescribed commercial premises of an existing building. It referred to commercial premises with a total floor area exceeding 230m² each that were used for carrying out businesses including banks (excluding merchant banks), off-course betting centres, jewelry or goldsmith shops having a security area, supermarkets, hypermarkets or department stores and shopping arcades. The fire safety provisions in existing buildings, though meeting the safety standards at the time of construction, might not be up to the present-day standards. To enhance the fire safety level of the existing old buildings for better protection of lives and properties, fire safety directions would be issued to owners/occupiers requiring them to provide additional fire safety measures. Under the Fire Safety (Commercial Premises) Ordinance, no consideration would be given as to whether the use at the prescribed commercial premises would be compatible with other uses within an existing building as well as the land use zoning. For planning application in the existing industrial buildings, FSD was more concerned about the fire safety aspect of the industrial building as a whole rather than that of a specific unit within the building. Hence, owing to fire safety concern, the current guidelines were that the aggregate commercial floor areas on the ground floor of an existing industrial/industrial-office building with and without sprinkler systems should not exceed 460m² and 230m² respectively, which was more stringent than that under the Fire

Safety (Commercial Premises) Ordinance.

20. In response to a Member's question, Ms. Yeung Wing Shan, Theresa, said that there were supermarket licences in Hong Kong. She further said that she did not agree that TPB PG-No. 22D should be applicable to the subject application as the premises was zoned "R(E)" on the OZP. TPB PG-No. 22D should only be applicable for development within "OU(Business)" zone.

21. The Chairman said that the applicant submitted a planning application for the proposed supermarket under the Ordinance. He remarked that in considering the application, Members should focus on the relevant planning considerations, the spirit of TPB PG-22D on commercial uses in existing industrial buildings as well as the Ordinance. The requirements of other ordinances could be a reference for the subject application.

22. Two Members raised questions that if the application was approved, whether change of use from commercial back to industrial would be allowed within an existing industrial building under the "R(E)" zone. Mr Wilson Chan replied that the "R(E)" zone was intended primarily for phasing out the existing industrial uses through redevelopment (or conversion) for residential use on application to the Board. Whilst existing industrial uses would be tolerated, new industrial developments were not permitted in order to avoid perpetuation of industrial/residential interface problem. The Secretary supplemented that according to Schedule II for existing industrial or industrial-office building of the Notes of the "R(E)" zone, non-polluting industrial uses without the use/storage of Dangerous Goods that required a licence under the Dangerous Goods Ordinance would be permitted as of right, while other industrial uses would require planning permission from the Board.

23. Noting that Members had no further questions, the Chairman informed the applicant's representatives that the hearing procedure for the review application had been completed. The Board would inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and the representatives of PlanD and FSD for attending the meeting. They all left the meeting at this point.

Deliberation

24. The Chairman drew Members' attention that they should focus on the relevant planning considerations for the application. The proposed supermarket at the premises was the subject of a planning application. The supermarket in Full View Factory Building was not a subject of planning application. While TPB PG-No. 22D was for consideration of commercial use in an existing industrial building under "OU(Business)" zone, it would provide Members with useful reference in considering cases in industrial buildings not under "OU(Business)" zone. Members agreed and noted that TPB PG-No. 22D was not a reason for the s.16 rejection.

25. The Secretary said that it was mentioned in paragraph 7.2 of the Paper that the aggregate commercial floor area limit on the ground floor of industrial/Industrial-Office building with and without sprinkler systems, i.e. not exceeding 460m² and 230m² respectively as specified in TPB PG-No. 22D, was a relevant consideration for the subject application. As the subject industrial building was not protected by a sprinkler system, the maximum permissible limit for aggregate commercial floor area of G/F was 230m². Only if the entire building was protected by a sprinkler system, it would be subject to a maximum permissible limit of 460m². The proposed supermarket exceeded the maximum permissible limit of 230m². D of FS objected to the application. It should be noted that TPB PG-No. 22D was not one of the reasons for rejecting the application at the s.16 application stage.

26. A Member stressed that no licence would be issued by FSD on the fire safety requirements. Another Member said that the upgrading requirement under the Fire Safety (Commercial (Premises)) Ordinance should not be mixed up with the fire safety requirements in considering a planning application. It was important for the Board to maintain a consistent approach for considering commercial use in an existing industrial building.

27. The Chairman agreed that the upgrading requirement under the Fire Safety (Commercial Premises) Ordinance regarding the the provision of an improvement on FSI and equipment of automatic sprinkler system, automatic cut-off device for mechanical ventilation system, emergency lighting, fire hydrant and hose reel system, manual fire alarms, and portable fire extinguishers should not be taken as equivalent to the requirements for considering a planning application. It should be noted that there were different regimes, and different ordinances had different requirements and objectives.

28. A Member considered that the views and fire safety requirements of FSD were consistent for the applied use within the subject industrial building. As there was a lack of background information on the supermarket in Full View Factory Building and it was not a case of planning permission, it was not a relevant reference in considering the subject application.

29. 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 considered that they were appropriate. The reasons were:

- “(a) the total floor area for the proposed ‘Shop and Services (Supermarket)’ use exceeds the maximum permissible limit of 230m² applicable to the subject building without a sprinkler system which is not acceptable to the Director of Fire Services from fire safety point of view; and;
- (b) approval of the application would set an undesirable precedent for similar applications, thereby resulting in adverse fire safety impact on such industrial buildings not equipped with a sprinkler system.”

[Mr Ivan C.S. Fu returned to join the meeting at this point.]

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

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

Fanling, Sheung Shui and Yuen Long East District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-PH/665

Proposed Temporary Tabernacle Camp and Picnic Sites for a Period of 3 Years in “Conservation Area” and “Residential (Group D)” Zones, Lots 153 (Part), 157 (Part), 158

(Part) and 159 (Part) in D.D. 108 and Adjoining Government Land, Pat Heung, Yuen Long
(TPB Paper No. 9549)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Ms Maggie Chin - District Planning Officer/Fanling, Sheung Shui and
Yuen Long East District, PlanD (DPO/FS&YLE,
PlanD)

Mr Tang Yung Yiu)

Mr Liu Kwok Wah)

Mr Tsang Chi Keung)

Ms Chan Sin Yan)

Mr Cheng Ka Cheung) Applicant's representatives

Ms Chan Kuen Lai)

Mr Chan Hon Tong)

Ms Choi Siu Fung)

31. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited the representative of PlanD to brief Members on the background of the application.

32. With the aid of a Powerpoint presentation, Ms Maggie Chin, DPO/FS&YLE, PlanD made the following main points as detailed in the Paper:

The Application

- (a) on 20.3.2013, the applicant sought planning permission for proposed temporary tabernacle camp and picnic sites at the application site (the site);

(b) on 7.6.2013, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) rejected the application for the following reasons :

- (i) there was a general presumption against development in the “Conservation Area” (“CA”) zone. The applicant failed to demonstrate that the development was needed to support the conservation of the existing natural landscape at the site or scenic quality of the area. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (ii) the applicant failed to demonstrate that the development would not generate adverse environmental, ecological, drainage and landscape impacts on the surrounding areas; and
- (iii) approval of the application would set an undesirable precedent for similar applications within the “CA” zone and the cumulative effect of which would result in general degradation of the environment and landscape quality of the area;

(c) the justifications put forth by the applicant in support of the review application were summarised as follows:

- (i) the Government had promised that private land would not be included in the Country Park area in the 1970s. Since the intentions of the Country Park and the “CA” zone, which were to conserve the natural environment for educational, research or passive recreational purposes, were similar, private land should also not be included in the “CA” zone. In this regard, flexibility should be exercised for approval of the subject application;
- (ii) based on the aerial photo taken by the Lands Department, the site was agricultural land in the 1960s. The site had been used for

farming purpose since 1960s. There was no reason why the site could not be retained or reverted to farming and educational use;

- (iii) the applied use would provide a camping ground for training purpose and outdoor activities for the grassroots. Knowledge/skills on hiking, climbing/stream rescue etc. would be taught. These activities supported nature conservation. Besides, the applicant was not a profit-making organisation and had offered the site free to the charitable organisations for holding activities for the grassroots;
 - (iv) the applicant understood that conservation of ecology and natural environment was important. However, the organisation operating on a non-profit basis could not afford the cost for conducting relevant technical assessments as required by the concerned departments; and
 - (v) the structures were used as classrooms for teaching, rest rooms and store rooms for farming tools. Lavatories were provided at a distance of over 30m from the river. Besides, the farmland (adjoining the site) should be included in the proposal for visual quality reason;
- (d) the site (2,774m²) was the subject of a previous application No. A/YL-PH/637, submitted by a different applicant, for temporary field study/education/visitor centre, nature farm and canteen for organic food for a period of 3 years, which was rejected by RNTPC on 24.8.2012. In processing the previous application, it was observed that the site was partly formed and paved, and vegetation on the site had been cleared in 2003 and 2009. An investigation was conducted by the PlanD to ascertain whether any unauthorised site formation works were involved that would contravene the approaches announced by the Board to deter “Destroy First, Built Later” activities in July 2011 and might constitute an abuse of the planning application process. Based on the investigation, there was no evidence

that the site formation/vegetation clearance works previously conducted in 2003 and 2009 were carried out by the applicant of the previous application nor was there evidence to indicate that the unauthorised development (UD) was of such a nature that might constitute an abuse of the planning application process;

- (e) according to the Chief Town Planner/Central Enforcement and Prosecution of PlanD, the storage use (including deposit of containers) and parking of vehicles found on the site was an UD. Enforcement Notice was issued to the concerned parties on 4.10.2011 requiring the discontinuance of UD. Subsequently, UD had been discontinued and the Compliance Notice was issued to the concerned parties on 20.8.2013. The site was subject to on-going enforcement action/monitoring and Reinstatement Notice might be issued to reinstate the site;
- (f) according to the information provided by the applicant at the s.16 application stage, five structures with a total floor area of about 190m² and building heights ranging from 2.5m to 5m were provided within the site. Two structures (about 30m²) for storage of camping equipments were provided in the eastern portion. A structure for family activity room (about 130m²) and two structures for storage of agricultural tools (15m²) and toilet (about 15m²) were provided in the western portion. No parking space was provided within the site. The visitors were required to alight from vehicles/coaches (48 seaters) at Fan Kam Road and walk to the site via a local road. The daily operation hours were from 9:00 a.m. to 6:00 p.m.
- (g) the surrounding areas were natural and rural in character predominated by woodland and vegetated land with scattered residential dwellings/structures located to the east and south of the site. Lam Tsuen Country Park was located to further east, south and west;
- (h) previous application – the site was the subject of a previous planning application No. A/YL-PH/637 for temporary field study/education/visitor

centre, nature farm and canteen for organic food use which was rejected by RNTPC on 24.8.2012 on the grounds that there was a general presumption against development in the “CA” zone and the applicant failed to demonstrate that the development was needed to support the conservation of the existing natural landscape at the site or scenic quality of the area. Besides, the applicant failed to demonstrate that the development would not generate adverse environmental, ecological, drainage and landscape impacts on the surrounding areas. Approval of the application would set an undesirable precedent;

- (i) similar application – there was no similar application within the same “CA” and “Residential (Group D)” (“R(D)”) zones;
- (j) departmental comments - the departmental comments were summarised in paragraph 5 of the Paper and set out as follows:
 - (i) the Director of Agriculture, Fisheries and Conservation (DAFC) advised that as the site had already been developed for the applied use, he was uncertain about the ecological impact caused by the proposed development. The applicant proposed to use septic tank within the site. Since the site was intercepted by a semi-natural stream, the Director of Environmental Protection (DEP) should be consulted regarding the issue of potential water pollution due to operation of the septic tanks;
 - (ii) DEP advised that the site fell within areas zoned “CA” and R(D)” on the approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11. The applicant should be reminded that “All projects including new access roads, railways, sewers, sewage treatment facilities, earthworks, dredging works and other building works partly or wholly in an existing or gazetted proposed country park or special area, a conservation area, an existing or gazetted proposed marine park or marine reserve, a site of cultural heritage, and a site of special scientific interest,...” might constitute a

Designated Project (DP) by virtue of Item Q.1, Part 1, Schedule 2 of the Environmental Impact Assessment Ordinance (EIAO). If the proposed project constituted a DP under EIAO, an environmental permit was required for its construction and operation. Since there was a potential violation of EIAO for the use at the site, the case had been referred to his enforcement team for follow-up and investigation was underway;

- (iii) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation from the landscape planning point of view. The development, if approved, might set an undesirable precedent and encourage more similar development in the “CA” zone, resulting in further vegetation clearance and degradation of landscape quality; and
- (iv) the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) pointed out that the drainage proposal plan submitted by the applicant appeared to be preliminary. Many essential details such as the gradients of the proposed u-channel, inverted levels of the manholes/catchpits, connection details of the proposed channel and the existing drainage facilities, relevant cross sections with the adjacent land etc. had not been provided;
- (k) public comment - during the statutory publication period of the review application, two public comments were received from Designing Hong Kong Limited (DHKL) and Kadoorie Farm & Botanic Garden Corporation (KFBG) which objected to or expressed concern on the application as the development was not in line with the planning intention of the “CA” zone; no convincing justification or detail of environmental protection/compensation scheme was provided; and the site was related to an UD subject to prosecution action; and approval of the application would set an undesirable precedent. During the statutory publication period at s.16 stage, three public comments were received (two of which were the

same commenters on the review application, i.e. DHKL and KFBG) which objected to or expressed concerns on the application mainly for the reasons that the development was not in line with the planning intention of the “CA” zone and not compatible with the rural character of the area and the development would also cause environmental impacts;

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

(l) PlanD’s views - PlanD did not support the application based on the assessments as detailed in paragraph 7 of the Paper, which were summarised as follows:

- (i) by comparing the aerial photos taken on 7.10.2002, 1.6.2003, 27.11.2003, 24.11.2009 and 21.6.2013, the site was of natural state covered with vegetation/trees in 2002. Subsequently, the eastern and western portions of the site were formed and the vegetation was cleared in 2003 and 2009 respectively. The site was the subject of enforcement action against unauthorised storage and parking of vehicle uses though such uses had been discontinued. The site was subject to on-going enforcement action/monitoring. In assessing the review application, this background and other site-specific circumstances, particularly the original state of the site of natural character with vegetation/trees before the site was used for storage and parking of vehicles purposes, should be taken into account;
- (ii) most of the site (93%) fell within the “CA” zone where there was a general presumption against development. Only developments for the support of nature conservation or the development was an essential infrastructure project with overriding public interest might be permitted. The “CA” zone was also intended to give added protection to the adjacent Lam Tsuen Country Park;
- (iii) the proposed development for tabernacle camp and picnic sites

was recreational in nature. It comprised a large paved area for campsite, store rooms, toilet and activity room. However, there was insufficient information given in the applicant's submission regarding the operation of the proposed tabernacle camp and picnic sites such as the number of participants, types and frequency of the activities/events to be conducted within the site and how the structures for storage of agricultural tools and family activity room uses would be required to support the development. Given the general presumption against development on areas within the "CA" zone, the applicant failed to demonstrate that the proposed development was needed to support the conservation of the existing natural landscape or scenic quality of the area. The development was considered not in line with the planning intention of the "CA" zone. No strong planning justification had been given to justify a departure from the planning intention, even on a temporary basis;

- (iv) DAFC expressed concerns regarding the potential water pollution to the stream adjacent to the site due to the operation or seepage of the septic tanks. DAFC was also uncertain about the ecological impact caused by the proposed development as the site had already been paved and developed for the applied uses. Moreover, DEP advised that the proposed development in "CA" might constitute a Designated Project under the EIAO and an environmental permit would be required for its construction and operation. No environmental impact assessment had been submitted for the application;
- (v) the revised drainage plan submitted by the applicant was not satisfactory and CE/MN of DSD had requested the applicant to submit a drainage proposal;
- (vi) CTP/UD&L of PlanD had reservation on the application in view of the importance and high landscape value of the "CA" zone. The

applicant failed to demonstrate that the development would not generate adverse environmental, ecological, drainage and landscape impacts on the surrounding area;

(vii) there was a previous Application No. A/YL-PH/637 submitted by a different applicant covering a larger site area for temporary field study/education/visitor centre, nature farm and canteen for organic food rejected by RNTPC on 24.8.2012 based on similar considerations. There was no change in planning circumstances that would warrant a departure from the previous decision. No similar application was approved within the same “CA” zone. Approving the application would set an undesirable precedent leading to development within the “CA” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment and landscape quality of the area; and

(viii) five public comments objected to or expressed concerns on the application were received during the statutory publication period at both the review and s.16 stages as the development was not in line with the planning intention of the “CA” zone and not compatible with the character of the area. No strong justification or detail of environmental protection/compensation scheme was provided and the development would cause environmental impact. The site was related to an UD subject to prosecution action and approval of the application would set an undesirable precedent.

33. The Chairman then invited the applicant’s representatives to elaborate on the review application.

34. With the aid of a Powerpoint presentation and video, Mr Tang Yung Yiu made the following main points:

(a) the site was rented free of charge to non-profit social and community

organisations. The applied use would provide a camping ground for teaching purposes and facilitate the public to get close to nature;

- (b) the site would provide a free educational family venue for the grassroots and teach people adventure skills as well as knowledge on hiking, camping and farming to promote natural environment awareness;
- (c) the existing structures at the site were used for teaching as well as storage of farming tools for teaching purposes;
- (d) the site had provided venues for social and community groups for teaching purposes such as Hong Kong Red Cross, The Hong Kong Federation of Trade Unions, Benji's Centre, Caritas Integrated Family Service Centre - Tin Shui Wai, Caritas Wong Yiu Nam Centre, and China Hong Kong Mountaineering and Climbing Union;
- (e) as shown on an aerial photo, the site was agricultural land in the 1960s. The site had been used for farming purpose since 1960s. The Government had promised in the 1970s that private land would not be included in the Country Park area. Under the "CA" zone, agricultural use, nature reserve, natural trail as well as on-farm domestic structures were permitted as of right; and there was provision for field study/education/visitor centre and tent camping ground under the planning permission system;
- (f) a farm adjoining the site was open in September 2010; and
- (g) the following applications within the "CA" zone were approved by the Board:

Application No.	Applied use/Development	Decision
A/I-NP/15	Proposed excavation of land for permitted drainage works	Approved with conditions on

		13.12.2013
A/SK-CWBN/8	Filling and excavation of land for permitted agricultural use (organic farm)	Approved with condition upon review on 28.11.2008
A/SK-CWBN/20	Proposed house (staff quarters)	Approved with conditions on 6.7.2012
A/SK-CWBN/24	Proposed public utility installation (sewage pumping station)	Approved with conditions on 11.1.2013
A/YL-SK/190	Temporary dog kennels for a period of 3 years	Approved with conditions on 2.8.2013

35. Ms Maggie Chin supplemented that the application No. A/YL-SK/190 quoted by the applicant's representative was in relation to the conversion of existing structures for chicken shed into dog kennel at a site in Shek Kong, Yuen Long. A planning permission had been granted by the Board for the chicken shed. A permit had been issued by the Environmental Protection Department for the chicken shed since 1993.

[Mr Patrick H.T. Lau left the meeting at this point.]

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

37. The Chairman noted that there had been an increase in paved area at the site since 2002 as shown on Plans R-3a to R-3e of the Paper. He doubted whether the paved area could be used for agricultural purpose. He also asked the applicant to clarify the source of financial support if the site was rent free to social and community organisations.

38. Mr Tang Yung Yiu said that they were self-sponsored and did not receive any donation or subsidies from charitable organisations. The site was offered rent free to social and community organisations. A part of the site had been paved since 2009 to facilitate the

provision of infrastructure.

39. In response to Mr K. K. Ling, the Director of Planning's further question on the existing conditions of the site. Mr Tang Yung Yiu said that the western portion of the site was occupied by a container used as a canteen and the eastern portion was used for visitor car parking area. Ms Maggie Chin further supplemented that the site was paved and consisted of two portions. The proposed tabernacle camp and picnic sites were in the eastern portion of the site, and there were some temporary structures and a canteen in the western portion. The area currently used for agricultural purpose by the applicant was outside the south-western boundary of the site.

40. In response to a Member's question, Mr Tang Yung Yiu said that the existing two-storeyed structures at the site were used for teaching/office purpose. As the structures were on-farm domestic structures, there was no need to obtain approval from Buildings Department.

41. A Member asked the applicant to provide information on how many visitors had been received at the site per year and how long the farm had been in existence at the site. The same Member also queried whether consent had been obtained from the relevant parties to broadcast the video of the activities of young people under protection order at the site. Mr Tang Yung Yiu said that about 300-400 visitors had been received per year from the social and community organisations. The farm had been in existence for some years ago. The video was obtained from a volunteer and there was no information whether consent had been obtained.

42. A Member noted in Appendix Ic of Annex A of the Paper that the applicant had only rent the site for the applied uses since April 2013 and asked the applicant to clarify why the applied uses had been at the site for some years. Mr Tang Yung Yiu replied that the area had been left vacant and they had made efforts to rehabilitate the area for agriculture use for many years.

43. In response to the Chairman's question, Mr Tang Yung Yiu clarified that the site involved some Government land but no approval had been obtained from the Lands Department.

[Professor S.C. Wong and Mr Clarence W. C. Leung left the meeting at this point.]

44. Noting that Members had no further questions, the Chairman informed the applicant's representatives that the hearing procedure for the review application had completed. The Board would inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and the representative of PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

45. A Member was concerned about what activities would be organized at the site if 300 to 400 visitors per year would be received for social and community organisations. There were no details on the operation of the proposed tabernacle camp and picnic sites and no new information had been submitted to address the RNTPC's rejection reasons. There were no sufficient justifications to support the application.

46. The Vice-chairman noted that the majority of the site fell within the "CA" zone. As shown on the aerial photos taken in 2002, 2009 and 2013, part of the site had been formed and vegetation had been cleared. It was obvious that the "CA" zone had been adversely affected. Besides, the site formed part of a larger site which was the subject of application No. A/YL-PH-637 submitted by a different applicant for temporary field study/education/visitor centre, nature farm and canteen for organic food rejected by RNTPC on 24.8.2013 based on similar considerations. No similar application was approved within the same "CA" zone. Hence, there were no justifications to recommend approval of the application.

47. Members generally agreed with PlanD's views in paragraph 8 of the Paper, and considered that the application should not be supported.

48. 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 considered that they were appropriate. The reasons were:

- “(a) there is a general presumption against development in the “CA” zone. The applicant fails to demonstrate that the development is needed to support the conservation of the existing natural landscape at the site or scenic quality of the area. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and;
- (b) the applicant fails to demonstrate that the development would not generate adverse environmental, ecological, drainage and landscape impacts on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for similar applications within the “CA” zone and the cumulative effect of which would result in a general degradation of the environment and landscape quality of the area.”

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

Sha Tin, Tai Po & North District

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the Draft Lin Ma Hang Outline Zoning Plan No. S/NE-LMH/1

(TPB Paper No. 9522)

[The hearing was conducted in Cantonese.]

49. The Chairman said that the representations would be considered collectively under two groups. The Chairman said that the deliberation session would be held after the presentation and question sessions for all the two groups.

Group 1 : R1 to R4 and C128

50. The Chairman said that reasonable notice had been given to the representers and commenter of Group 1 to invite them to attend the hearing. Members agreed to proceed with the hearing of the representations in Group 1 in the absence of the other representers and commenter who had indicated that they would not attend or made no reply to the invitation to the hearing.

51. The following Government representatives and the representers' representatives were invited to the meeting at this point:

Mr C.K. Soh	-	District Planning Officer/Shan Tin, Tai Po and North, PlanD (DPO/STN, PlanD)
Mr Wallace Tang	-	Senior Town Planner/Shan Tin, Tai Po and North, PlanD
Ms Cindy Wong	-	Town Planner/Shan Tin, Tai Po and North, PlanD
Mr Cheung Kwok Wai	-	Senior Nature Conservation Officer (North), Agriculture, Fisheries and Conservation Department (AFCD)

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

Mr Andrew Chan]	Representer's representatives
Mr Tobi Lau]	

R3 - Kadoorie Farm & Botanic Garden Corporation (KFBG)

Ms Woo Ming Chuan]	
Dr Chiu Sein Tuck]	Representer's representatives
Mr Tony Nip]	

R4 - Designing Hong Kong Limited (DHKL)

Ms Debby Chan	-	Representer's representative
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52. The Chairman extended a welcome and explained the procedure of the hearing. He then invited the representatives of PlanD to brief Members on the background of the representations.

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

Background

- (a) in 2006, the Security Bureau conducted a review of the coverage of the then Closed Area and concluded that the objective of maintaining boundary security might still be achieved even if the Closed Area was reduced;
- (b) a Consultancy Study entitled “Study on Land Use Planning for the Closed Area – Feasibility Study” (FCA Study) was commissioned in 2007 and completed in 2010 to formulate a land use planning framework to guide the conservation and development of the Closed Area, based on the principle of sustainable development. The land use framework integrated land use proposals that enhanced conservation, while promoting appropriate development to enhance the livelihood of local residents and prosperity of local economy;
- (c) five draft Development Permission Area (DPA) Plans for the Closed Area were prepared to take forward the recommendations of the FCA Study;
- (d) the key chronology of events for the draft Lin Ma Hang (LMH) Outline Zoning Plan (OZP) No. S/NE-LMH/1 (the OZP) were:
 - (i) on 30.7.2010, the draft LMH DPA Plan No. DPA/NE-LMH/1 (the DPA Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance);
 - (ii) the Town Planning Board (the Board) considered the representations and comments, and, after further review of the land use proposals by PlanD, published the amendments to the draft DPA in relation to the rezoning of LMH Stream buffer area from “Conservation Area” (“CA”) to “Green Belt” (“GB”) for public

inspection in 16.9.2011;

- (iii) on 8.1.2013, the Chief Executive in Council approved the draft DPA Plan under section 9(1)(a) of the Ordinance;
- (iv) on 26.4.2013, the Board gave preliminary consideration to the draft OZP and agreed that the draft OZP was suitable for submission to the North District Council (NDC) and Sha Tau Kok District Rural Committee (STKDRC) for consultation. NDC and STKDRC were consulted in May 2013 and consultation was also extended to the village representatives (VRs) of LMH and green/concern groups (including Conservancy Association (CA), WWF, KFBG, DHKL and Green Power);
- (v) on 28.6.2013, the Board gave further consideration to the draft OZP, together with the comments received from concerned parties;
- (vi) on 19.7.2013, the draft OZP No. S/NE-LMH/1 was exhibited for public inspection under section 5 of the Ordinance. During the exhibition periods, a total of four representations and 128 comments were received respectively; and
- (vii) on 10.1.2014, the Board decided to consider the representations and comments under two groups;

Planning Scheme Area

- (e) the planning scheme area (the Area) of the draft OZP covered a total area of about 329 ha. It was located approximately 6 km to the northeast of Fanling/Sheung Shui;
- (f) a spectrum of natural habitats including ‘fung-shui’ woodland, mixed shrubland, freshwater/brackish wetland, lowland forest and natural watercourse were found in the Area. The Area also covered two “Sites of

Special Scientific Interest” (SSSIs) (i.e. LMH Lead Mines SSSI and LMH Stream SSSI);

- (g) there were two recognised villages within the Area, namely LMH and San Kwai Tin. Economic activities were limited in the Area due to its rugged relief and limited accessibility. There were small scale horticultural and agricultural activities including growing of vegetable, flowers and fruits;

General Planning Intention

- (h) the general planning intention of the Area was to protect the natural setting, environmental diversity and to promote cultural conservation and recreation tourism. It was also the planning intention to conserve the rural character, the natural habitats including the undisturbed woodland and lowland river habitats, the unique landscape as well as the ecologically important areas and the upland scene of the planning scheme area;

Representations and Representers’ Proposals

- (i) the representations R1 to R4 were submitted by green/concern groups including CA (R1), WWF (R2), KFBG (R3) and DHKL (R4). In the four representations, the “GB” and “GB(1)” zones were considered insufficient to protect the ecologically valuable areas, in particular the riparian area of LMH Stream, whilst the areas zoned “V” were considered excessive;
- (j) the main grounds of the representations and the representers’ proposal as summarised in paragraph 2.2 of the Paper were:

Protection of the lowland streams

- (i) KFBG had carried out detailed biodiversity study in rural areas including LMH and San Kwai Tin, which had reinforced earlier findings of the high ecological value of the lowland streams. The submissions and recommendations on protection of ecological

habitats, however, had not been given due consideration by the Government in the plan-making process (R3);

- (ii) the Authority was not paying sufficient attention to the obligations of the Convention on Biological Diversity (the Convention) which required that important habitats especially ecosystems in pristine condition should be protected using a holistic approach. The obligation of the Convention should be reflected in the zonings of the OZP (R3);
- (iii) in the four letters/joint letters attached to R3's representation, the green/concern groups mainly suggested, among others, protection measures for habitats of high ecological value; and pointed out adverse impact of inappropriate zoning on local conservation and landscape heritage (R3);

LMH Stream and its riparian area

- (iv) LMH Stream had high conservation value for fish community in Hong Kong. For better conservation of the stream and to ensure its ecological integrity, its entire riparian area should be zoned "CA" (R1);
- (v) the protection of the stream buffer of LMH Stream SSSI would be weakened if the stream buffer was not zoned "CA" as projects which might impose significant environmental impacts would no longer be required to apply for environmental permit under the Environmental Impact Assessment Ordinance (EIAO) (R2);
- (vi) the riparian area had acted as a buffer zone to protect the high ecological value of LMH Stream. It was wrong to rezone the LMH Stream riparian area from "CA" to "GB"/"GB(1)" by ignoring the views of the environmental non-government organisations (R3);

Designation of “V” zones

- (vii) survey should be conducted to ensure that species or habitats of conservation interest and agricultural land with good quality which might exist in the “V” zones could receive better protection by conservation zonings (R1);
- (viii) the “V” zone for LMH was already larger than the village ‘environs’ (‘VE’) of the recognised village by about 7% to meet the needs for Small House development. The designation of “V” zone should not jeopardise the need to protect the stream buffer of a SSSI (R2);
- (ix) the demand of Small Houses was infinite and should be contained within existing ‘VE’ or “V” zone. Designating new “V” zone contradicted this containment policy (R4); and
- (x) the Closed Area had high landscape and ecological values and all development within the area should meet the highest landscape, streetscape and environmental standards and had to be subject to sustainable infrastructure layout plans and guidelines. However, the lack of village layout and infrastructure support within the “V” zone might lead to environmental deterioration (R4);

Representers’ proposal

- (k) R1 to R3 considered that the entire riparian area of LMH Stream should be zoned as “CA”;

Responses to Grounds of Representations and Representers’ Proposal

- (l) the Government’s responses to the grounds of representations and representers’ proposal as detailed in paragraph 5.13 of the Paper were

summarised as follows:

Protection of the lowland streams

- (i) extensive consultations with green/concern groups, local villagers and stakeholders had been carried out in preparing the draft DPA Plan and draft OZP. Similar views on protection of LMH Stream and its riparian area had been expressed by the green/concern groups and considered by the Board at the preparation stage of the statutory plan as well as hearing of the representations and comments for the draft LMH DPA Plan in accordance with the provisions of the Ordinance. The divergent views raised by the green/concern groups, local villagers and stakeholders had been fully heard and deliberated by the Board (R3);

- (ii) the natural stream, the ‘fung-shui’ woodland and the closed-canopy shrubland and secondary woodland which were considered as having high ecological value were already zoned “SSSI”, “CA”, “GB” and “GB(1)” under the current OZP. The OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBG in 2004. In the course of preparing the OZP, all major stakeholders including the green groups, local villagers and Rural Committees had been consulted and their views had been taken into account in drawing up the OZP. The OZP had struck a balance between conservation needs and the development needs of the villagers;

LMH Stream and its riparian area

- (iii) the ecological significance of LMH Stream was recognised and the stream was zoned “SSSI” on the OZP as recommended by the FCA Study. It should be noted that the FCA Study had not made any specific recommendation on the zoning of the buffer area and

had suggested that an appropriate land use zoning could be further considered when the statutory town plan was prepared for the area in future;

- (iv) in considering the appropriate zoning for the buffer area, the Board had taken into account all the relevant factors (e.g. the buffer area was predominantly located within private lots, there were pockets of village settlements, and the buffer itself was mainly fallow agricultural land which might not carry high intrinsic ecological value) and public views as well as professional advice from the Director of Agriculture, Fisheries and Conservation (DAFC). The “GB” and “GB(1)” zonings on the OZP could provide a buffer to protect the water quality and ecosystem of the stream, and, at the same time, allow flexibility for suitable development to meet community need subject to scrutiny of the Board under the planning permission system (R1 to R3);
- (v) “CA”, “GB” and “GB(1)” zonings, though with different degrees of control, were all conservation zonings with a general presumption against development within the zones. Any diversion of streams, filling of land/pond or excavation of land shall not be undertaken without the permission from the Board. Any unauthorised development would be subject to enforcement by the Planning Authority in accordance with the provisions of the Ordinance. DAFC also advised that the habitat characteristics and site circumstances were not the same along the whole buffer area, and that thus different zonings were considered appropriate for the lower and the upper sections of LMH Stream (R1 to R3);
- (vi) in the downstream area where village settlements and more human activities were found, the “GB” zoning as agreed by DAFC could act as a vegetated buffer to separate the village area from the stream and allow a wider range of uses to cater for community needs on application to the Board;

- (vii) the upper section of LMH Stream was densely vegetated with few signs of human disturbance. It was considered more appropriate to devise a sub-zone of “GB”, i.e. “GB(1)”, to provide a higher degree of protection of the stream but at the same time allow flexibility for some necessary uses to cater for the needs of local villagers. Designating the buffer area of the upstream section as “GB(1)” was a balancing act to cater for both the needs for conservation and development;
- (viii) the Ordinance and EIAO were two different regimes. Under the Ordinance, the Board had the duty to consider the zoning of an area having regard to all relevant planning considerations including ecological significance, conservation value, development needs, etc. Whether an area needed to be zoned “CA” should be considered in its own right taking into account the aforesaid planning considerations (R2);
- (ix) the “CA”, “GB” and “GB(1)” were all conservation zones providing different degree of control on development. They had been designated on the statutory plan after taking into account all relevant factors including the Convention on Biological Diversity as advised by DAFC (R1 to R3);

Designation of “V” zones

- (x) the boundaries of the “V” zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as local topography, settlement patterns, ecologically important area and other site specific characteristics. DAFC considered that further investigation on the species or habitats within the “V” zone was not necessary (R1);
- (xi) the size of the “V” zone (12.83 ha) of LMH Village, which was

slightly larger than the “VE” (12 ha) by about 7%, had been drawn up based on a number of considerations. Firstly, the “V” zone was carved into three portions by LMH Stream and the irregular and winding configuration of the stream had created some residual land of irregular shape which was not suitable for Small House development. Secondly, some of the “V” land might be subject to flooding in the wet seasons and hence some setback areas had to be reserved to allow flexibility for Small House development near the LMH Stream. Thirdly, Small House applications within the “V” land but in close proximity to LMH Stream which was a SSSI might be prone to difficulties in addressing the relevant departments’ concern and requirement. Allowance had been given for a “V” zone slightly larger than the ‘VE’ (R2);

- (xii) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the two recognised villages within the LMH area, i.e. LMH and San Kwai Tin. The boundaries of the “V” zone for these villages were drawn up having regard to the ‘VE’, local topography, settlement pattern, Small House demand forecast, areas of ecological importance, as well as other site specific characteristics (R4);
- (xiii) regarding the concern on environmental impact arising from the lack of proper sewerage facilities and infrastructure, the sewage disposal and site formation works of Small House would be considered by concerned departments during the processing of the Small House application by the Lands Department (LandsD). The arrangement of sewage disposal and carrying out of site formation works should comply with the requirements from the relevant government departments (R4); and
- (xiv) the preparation of new village layout plans (VLPs) for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower

and priority of work within PlanD (R4);

Comments on Representations and Responses to Comments

- (m) a total of 128 comments (C1 to C128) had been received as summarised in paragraph 3 of the Paper. C1 to C127 were submitted by the indigenous villagers of LMH, LMH Village Office and two LMH Overseas Associations in the UK and Malaysia. C128 was submitted by a member of the public;
- (n) major grounds of comments as summarised in paragraphs 3.1 and 3.2 of the Paper were:
 - (i) C1 to C127 objected to the 20m-wide buffer area on both sides of LMH Stream to be rezoned back from “GB” and “GB(1)” to “CA” as proposed by the representers. In 2011, the Board had rezoned the riparian area of LMH Stream to “GB”. While they were not satisfied, they accepted the rezoning. It should not be rezoned back to “CA”. To conserve LMH Stream, the support from the villagers/landowners was very important. The land and houses in LMH were their legal properties which should be protected by law and should not be infringed;
 - (ii) C128 commented that the planning scheme area was close to the study area of the Preliminary Feasibility Study on Developing the New Territories North (the NT North Study). If the draft OZP was approved, it would pre-empt the long term planning intention for the study area;
- (o) responses to comments as summarised in paragraphs 5.14 to 5.16 of the Paper were as follows:
 - (i) C1 to C127’s comment that the riparian area of LMH Stream should not be rezoned back to “CA” was noted;

- (ii) regarding C1 to C127's comment on the infringement of private property right, it should be noted that the imposition of planning restrictions on land was not an infringement of private property right. Moreover, the District Lands Officer/North, Lands Department (DLO/N, LandsD) advised that the ownership status of the private lots and their rights and obligations as stipulated in the leases governing them would remain unchanged even after the draft OZP had come into force and thus, there was no infringement of private property right from lease point of view; and
- (iii) the comment of C128 was not related to the draft LMH OZP and the four representations received. The NT North Study was a strategic planning study to examine the development opportunities and constraints of NT North and had no direct relationship with or implications on the draft OZP;

PlanD's View

- (p) based on the planning considerations and assessments in paragraph 5 of the Paper, PlanD considered that the representations R1 to R4 should not be upheld and the Plan should not be amended to meet the representations.

[Ms Janice W. M. Lai left the meeting temporarily at this point.]

54. The Chairman then invited the representers' representatives to elaborate on their representations:

R2 - WWF

55. With the aid of a Powerpoint presentation, Mr Tobi Lau made the following main points:

- (a) KFBBG and relevant government departments had carried out studies which

provided a lot of ecological data to support the high ecological value of LMH Stream. The riparian area of LMH stream was an integral part to the stream course as it acted as a buffer zone to protect the high ecological value of the stream. The land use zoning of the riparian area would have direct impact on LMH Stream. However, the “GB” and “GB(1)” zones of the riparian area could not adequately reflect the ecological importance of and tendered protection to LMH stream and would facilitate future development in LMH through the planning permission system; and

- (b) they objected to the “GB” and “GB(1)” zones for the riparian area, which should be zoned “SSSI” or “CA(1)”.

[Ms Janice W. M. Lai returned to join the meeting at this point.]

R3 - KF BG

56. With the aid of a Powerpoint presentation, Mr Tony Nip made the following main points:

- (a) they disagreed with Mr C.K. Soh’s introduction in that the lower and upper sections of LMH Stream were not initially proposed to be zoned “GB” and “GB(1)”. According to their understanding, the whole riparian area of LMH Stream was originally zoned “CA”, and then rezoned to “GB”. Eventually, the lower and upper sections of the stream were zoned “GB” and “GB(1)” respectively on the OZP;
- (b) on the basis of site photos recently taken in LMH, the lower section of LMH Stream was characterized by natural environment and many vacant farmland. They disagreed that there were many village settlements and human activities along the lower section of LMH Stream;
- (c) LMH Stream was a lowland stream recognized as having high ecological value. The lower section of LMH Stream provided a nursing ground as well as shelter/foraging ground for *Chinese Rasbora* which was a rare

freshwater fish species in Hong Kong. The lower section of LMH Stream also had relatively high diversity of aquatic vegetation;

- (d) KFBG had offered comments on a number of planning applications for Small House development within “GB” zone in 2012/2013. It was found that more than one-third of these applications were approved by the Board. It was doubtful as to whether the “GB” zoning would be an effective planning tool to help protect the high ecological value of this stream;
- (e) there were other natural streams in the rural area of the New Territories such as Tai Po and Ha Tam Shui Hang in Shau Tau Kok where village settlements were found along both sides of the streams. The streams were eventually channelised due to the risk of flooding. This would have adverse impact on the streams. There were also drains from village settlements for sewage disposal directly into the streams. Members should consider the impact of Small House development on LMH Stream SSSI. In “V” zone of the New Territories, ‘Eating Place’ was always permitted on the ground floor of Small House development. There was concern on sewerage disposal of these eating places. As such, land use planning should take into account the existing situation. Moreover, ‘Barbeque Spot’ as permitted in “GB” zone would also pose serious risk to the water quality of the streams. They asked whether privately owned and/or commercially operated barbeque sites were included in ‘Barbeque Spot’, and the reason for including ‘Barbeque Spot’ as a Column 2 use in the “GB(1)” zone;
- (f) there was also concern on the impact on rural streams in the New Territories due to land filling or paving for vehicular access in relation to Small House development; and
- (g) village settlements in LMH in the past were compatible with the surrounding environment. However, the natural environment would be destroyed by inappropriate zonings. Members should considered whether LMH Stream SSSI would be saved taking into account that ‘Barbeque Spot’

was permitted in “GB” zone and more than one-third of the applications for Small House development in “GB” zone were approved by the Board. They objected to the “GB” zone and they considered the “V” zone should not be too large. The themes of the FCA Study were to strengthen nature conservation, conserve natural resources and promote sustainable uses of the land resources. Members should consider whether a balance between conservation and development needs had been struck.

R4 - DHKL

57. With the aid of a Powerpoint presentation, Ms Debby Chan made the following main points:

- (a) according to the FCA Study, the Closed Area which was left intact for a long time had exceptional landscape and ecological values. Both LMH Stream and its buffer area should be protected properly. All developments within the area should meet the highest landscape, streetscape and environmental standards;
- (b) areas along LMH stream were zoned “GB” and “V”. Whilst “GB” had provision for Small House development through the planning permission system. The designation of “GB” zone for the stream buffer area was insufficient to safeguard the SSSI and did not reflect the ecological value of the area. It would give rise to a false expectation for the villagers that the area was suitable for development. Area adjacent to “V” zone was affected by human disturbance. The “V” zone for LMH was already larger than the ‘VE’. This would set an undesirable precedent;
- (c) although the development of Small Houses in these areas was subject to planning control of the Board, the lack of village layout and infrastructure support within “V” zone might still lead to environmental deterioration. More stringent planning control should be imposed to require planning approval for vegetation clearance, site formation and excavation of land within “V” zone;

- (d) the riparian area of LMH Stream should be zoned “GB(1)” or “CA” to protect the ecological linkage, valuable and diverse habitats, and food source and shelter supporting the stream species; and
- (e) the “GB” and “GB(1)” zones were not sufficient to protect the high ecological value of LMH Stream and should be zoned “CA” and “SSSI”.

[Mr Maurice W. M. Lee and Mr H F Leung arrived to join the meeting at this point.]

58. As presentation from PlanD’s representatives, representers and their representatives had been completed, the Chairman invited questions from Members.

59. In response to a Member’s question in relation to the biodiversity study of KFBCG and the ecological value of LMH Stream before and after the opening up of the Closed Area, Mr Tony Nip said that according to the biodiversity study carried out by KFBCG, LMH Stream and its riparian area had high ecological value and would need to be protected. The FCA Study considered that there should not be any development along the stream and its riparian area. However, the statistics of planning approval for Small House development revealed that “GB” zoning was not sufficient to protect the high ecological value of this stream.

60. In response to a Member’s question on the difference between the three conservation zones of “CA”, “GB(1)” and “GB”, Mr C.K. Soh explained that both “GB” and “GB(1)” had general presumption against development but compared with the “CA” zone, the “GB(1)” zone would strike a better balance between conservation and development. Since LMH Stream passed through the existing village clusters, the Notes for the “GB(1)” zone was specifically worked out on the basis of the “CA” zone but some uses such as ‘Burial Ground’ and ‘Rural Committee/Village Office’ were proposed under Column 2 to cater for the local needs of the villagers. Some passive recreational uses e.g. ‘Picnic Area’ and ‘Tent Camping Ground’ which were permitted in “GB” zone were proposed under Column 1 while ‘Barbecue Spot’ and ‘Holiday Camp’ which might have adverse impact on the area were proposed under Column 2. The rebuilding of New Territories Exempted House (NTEH) and replacement of an existing domestic structure by a NTEH were also

permitted under the covering Notes of the “GB(1)” zone to cater for the needs of the villagers.

61. In response to a question from the same Member, Mr Cheung Kwok Wai said that the rare freshwater fish species of *Chinese Rasbora* was only found in lowland streams. LMH Stream had suitable environment for the rare fish species as the stream flew into Sham Chum River and not directly into the sea.

62. As the representers’ representatives of Group 1 had finished their presentations and Members had no further question to raise, the Chairman informed that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and inform the representers of the Board’s decision in due course. The Chairman thanked the representers’ representatives for attending the hearing. They all left the meeting at this point.

Group 2 : C1 to C127

63. The Chairman said that reasonable notice had been given to the commenters of Group 2 to invite them to attend the meeting. Members agreed to proceed with the hearing of the representations in Group 2 in the absence of the other commenters who had indicated that they would not attend or made no reply to the invitation to the hearing.

64. Members noted that the following documents from the commenters and their representatives were tabled at the meeting:

- (a) two letters of 20.10.2013 and 22.10.2013 respectively from LMH Overseas Association (in Malaysia) and indigenous villagers of LMH (currently living in Malaysia);
- (b) letter of 20.2.2014 from Sha Tau Kok LMH Tsuen Village Office;
- (c) letter of 27.2.2014 from Heung Yee Kuk on behalf of Ms Chan Ka Mun, Mr Chan Tung Ngok and Mr Chan Hon Kwan, representatives of LMH villagers; and

- (d) two booklets in relation to the history of LMH Village and the Residence of Ip Ting-sz, a Declared Monument in LMH.

65. The following commenters' representatives were invited to the meeting at this point:

C3 - Sha Tau Kok LMH Tsuen Village Office

Mr Yip Wah Ching]	
Mr Ip Cheng Fung]	
Mr Ip Hung Hung]	
Mr Ip Lung Heung]	
Mr Ip Tung Fook]	
Mr Ip Tin Sau]	
Mr Ip Yuet Choi]	
Mr Lau Kwok Keung]	
Mr Lau Kin Ping]	
Mr Yip Yoon Kat]	
Mr Ip Kam Cheung]	
Mr Yip Yuk Yim]	
Mr Yap Kon Fong]	Commenter's representatives
Mr Yip Mo Chuen]	
Mr Ip Ma Sang]	
Ms Ip Cheung Lan]	
Mr Yip Wai Chung]	
Mr Ip Sai Hung]	
Mr Chan Kwai Ping]	
Mr Yip Kam Wai]	
Ms Yeung Wai Kuen]	
Mr Lau Kwok Fai]	
Mr Yip Kwai Lun]	
Mr Lee Kwok Chu Perry]	
Mr Ip Yuk On]	
Ms Chung Chang Ying]	

Ms Yip Shuk Kuen]	
Ms Yip Hing Lan]	
Ms Yip Doi Wan]	Commenter's representatives
Ms Yip Ho Yuk Lan]	
Mr Yip Mo Yau]	

C82 - LMH Overseas Association

Mr Yip Yet Fan - Commenter's representatives

66. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the commenters' representative to elaborate on their comments.

C3 - Sha Tau Kok LMH Tsuen Village Office

67. With the aid of some photos, Mr Yip Wah Ching made the following main points:

- (a) the hearing of representations and the comments in respect of the draft OZP should not be separated into two groups. They could not hear the points made by Group 1 and it was unfair for them to wait outside the meeting. The Board should review the arrangement;
- (b) the LMH villagers strongly opposed to the representers' proposal to rezone the 20m-wide buffer area on both sides of LMH Stream from "GB" and "GB(1)" to "CA";
- (c) LMH Overseas Association in Malaysia (C82) had just received the Paper which was sent to Malaysia and was not able to attend the meeting. Their letters of 20.10.2013 and 22.10.2013 were tabled at the meeting. Although some LMH villagers had moved to overseas since 1930/40s, the development rights of their private lots should be respected. Conservation and revitalization of LMH area without the support and co-operation of the villagers could not achieve any results;

- (d) the LMH Stream buffer zone was rezoned from “CA” to “GB” in the draft DPA Plan to partially meet the representations of the villagers. The local villagers had reluctantly accepted the “GB” zone. If the buffer zone was to be rezoned from “GB” and “GB(1)” to “CA” to meet the representations of the conservationists or green groups, the villagers would put all their efforts into protecting their homeland against the Government as the interests of the villagers had not been taken into account;
- (e) LMH Stream was not a natural stream but was built by the ancestors of the villages many years ago. In the old days, villagers would use the water in the stream for irrigating their farmland. Much effort had been made by the villagers to maintain the stream in its current state;
- (f) the villagers and their ancestors had all along been conscious of the environment and treasured the area where they lived more than any other people; and
- (g) the Board should not neglect the loss suffered by the villagers due to the deprivation of their development rights by rezoning the area to conservation related zoning.

68. The Chairman remarked that the representations and comments to be heard by the Board in two groups would not affect the Board’s consideration of the representations and comments as the Board would take into consideration all the representations and comments as well as the points raised in the hearing session before making a decision whether to propose or not to propose any amendment to the OZP to meet or partially meet the representations. The Chairman also said that as confirmed by the Secretariat of the Board, the audio device was in normal operation at the public viewing room on 14/F of North Point Government Offices where Group 2 commenters could hear the presentation made by Group 1 representers. Besides, the Paper was delivered to the commenter in Malaysia according to the usual practice of the Board.

69. With the aid of some photos and a survey map, Mr Ip Yuk On made the following main points:

- (a) LMH Stream was not a natural stream. The current LMH Stream originally comprised several small streamlets which were subsequently channellised by the ancestors of the village into a stream by laying stones on both sides. Drop-gates to store water were also built by the villagers. Much efforts had been made by the villagers to maintain the stream over the years;
- (b) the 'fung shui' pond in the lower section of LMH Stream was also very important to the villagers as it was for cultivation and fire fighting purposes;
- (c) the 'fung shui' woodland was planted by the ancestors of the villagers and well preserved by the villagers. The villagers did not fell any trees within the woodland;
- (d) the former Residence of Ip Ting-sz, a Declared Monument in LMH, was also well preserved by the villagers; and
- (e) the imposition of land use zonings on LMH Stream for conservation purpose would affect the private land of the villagers. The impact on the villagers had to be duly considered by the Board.

[Professor S. C. Wong left the meeting at this point.]

70. Mr Ip Cheng Fung made the following main points:

- (a) the 'fung shui' woodland and the 'fung shui' pond in the village had been well preserved by the villagers;
- (b) LMH Stream was built by the villagers who had used and maintained the stream over the years. The high ecological value of LMH Stream was the results of the efforts put in by the villagers in maintaining the stream over the years. Without the villagers' efforts, the water quality of the stream would not be guaranteed; and

- (c) due to economic recession, some overseas villagers might want to come back to the village for cultivation. Under the “CA” zone, the livelihood of the villagers would be affected as development within their private land could be seriously restricted.

[Mr Patrick H. T. Lau left the meeting at this point.]

71. Mr Ip Hung Hung made the following main points:

- (a) conservation would infringe on the development rights of the villagers. This was tantamount to robbing the private properties from the villagers; and
- (b) LMH villagers would protect the private right of their land.

72. Mr Lau Kwok Keung made the following main points:

- (a) there were many villagers currently living overseas and many of them wanted to return to the village to build Small Houses and for cultivation; and
- (b) the proposal of the conservationists/green groups to rezone the buffer zone to “CA” would have adverse impact on the ‘fung shui’ of LMH Village;

C82 - LMH Overseas Association

73. Mr Yip Yet Fan made the following main points:

- (a) many villagers currently living overseas expressed their desire to return to the village to build Small Houses. The traditional right of the villagers to develop Small House within the ‘VE’ should be protected; and
- (b) it was unfair for the villagers to give up their development rights for nature

conservation without compensation. The development rights of the villagers should not be overlooked.

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

[Mr Maurice W. M. Lee left the meeting at this point.]

Deliberation Session

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

76. Members noted the following responses to the grounds of representations as suggested by PlanD:

- (a) the OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBCG in 2004;
- (b) the "CA", "GB" and "GB(1)" were all conservation zones providing different degree of control on development. They had been designated on the statutory plan after taking into account all relevant factors including the Convention on Biological Diversity as advised by DAFC;
- (c) the boundaries of the "V" zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as local topography, settlement patterns, ecologically important area and other site specific characteristics;

- (d) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the two recognised villages within the LMH area, i.e. LMH and San Kwai Tin. A larger “V” zone had been designated to allow more flexibility for Small House development near LMH Stream;
- (e) the sewage disposal and site formation works of Small House would be considered by concerned departments during the processing of the Small House application by LandsD. The arrangement of sewage disposal and carrying out of site formation works should comply with the requirements from the relevant government departments; and
- (f) for the existing VLPs, PlanD would continue to monitor the situation and update them, if required. The preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD.

77. The Chairman said that Members noted that the designation of “GB”, “GB(1)” and “CA” zones was on the basis of extensive consultation during the preparation of the draft OZP. While the “GB”, “GB(1)” and “CA” zones were all conservation zones with different degrees of control, consideration should be given to whether “GB(1)” zone was appropriate for the riparian area of LMH Stream on the draft LMH OZP. Regarding the boundaries of “V” zone, it had taken into account the recommendations of the FCA Study and various planning considerations such as local topography, settlement patterns, ecologically important area and other site specific characteristics. The commenters’ concern on private property right was fully considered. The Chairman invited Members to consider the representations and comments, taking into consideration all written submissions and oral presentations at the meeting.

78. The Vice-chairman considered that although “GB” and “GB(1)” zone might not be sufficient to protect the buffer zone of LMH Stream from the conservation point of view, there should be a holistic approach of conservation in the New Territories (including the Closed Area). As there should be a balance between conservation and development needs

in the preparation of the statutory plans, he agreed to the land use zonings of “GB” and “GB(1)” to protect the natural ecological environment in LMH Stream. A Member agreed with the Vice-chairman’s view. He said that LMH had potential for both recreational development and conservation as recommended in the FCA Study. He had visited LMH three times and LMH was rich in historical, ecological and cultural values. To implement the recommendations of the FCA Study, the co-operation of the local villagers would be very important. There would be adequate provision for the Board to guard against incompatible developments within the “GB” and “GB(1)” zones under the planning permission system and the Board should consider each case on its own individual merits with a set of clear guidelines.

79. A Member said that as LMH area fell within the Closed Area, many villagers had left the village and gone overseas to work. With the opening up of the Closed Area, some villagers might return to the village and it was not possible to conserve the environment as if it was within the Closed Area before. As many of the land parcels in LMH area were privately held, a proper balance between nature conservation and the development needs of the villagers should be struck.

80. A Member agreed that there should be a balance between conservation and the need for development.

81. In response to the concerns as expressed by Members, the Secretary made the following points:

- (a) LMH Stream was designated as a SSSI in 2007 in consideration of its high ecological value. In view of the need to protect the riparian area of LMH Stream, the FCA Study proposed that a 20m wide zoning buffer could be considered for better protection of the stream. A 20m-wide buffer area along both sides of the stream was first zoned “CA” when the draft LMH DPA Plan was published in July 2010. In the further consideration of the representations to the DPA Plan, the Board agreed on 8.9.2011 to rezone the concerned buffer area from “CA” to “GB” to partially meet the representations of the LMH villagers. The rezoning from “CA” to “GB” would allow the Board to regulate developments within the buffer area and

maintain a proper balance between conservation and the need for development. However, the green/concern groups still maintained their concerns on the buffer area along LMH Stream which was zoned “GB” on the approved DPA Plan. They were of the view that the concerned area would be covered by “CA” zoning to provide sufficient protection for the stream;

- (b) in preparing the draft OZP, after further site investigation and discussion with AFCD, noting that the upstream area of LMH Stream was densely vegetated with few signs of human disturbance, it was considered more appropriate to be rezoned to “CA” for better protection of the water quality and habitat characteristics of the stream. As for the downstream area, there were already pockets of village settlements. AFCD agreed that it was appropriate to retain the “GB” zone for the buffer area at the downstream area. The “GB” zone could be regarded as a vegetated buffer to separate the village area from the stream, and to provide flexibility to the Board to scrutinize developments under the planning permission system. This could also maintain a proper balance between conservation and the community need for development. During the consultation of the draft OZP, the local villagers strongly opposed to the “CA” zone for the riparian area along the upper section of LMH Stream mainly for the reasons that the land falling within the “CA” zone was mostly private land owned by the villagers. They considered that the “CA” zone would ‘freeze’ their land and thus they would be restricted from all kinds of development within the buffer zone along the LMH upstream area, including maintenance of the watercourse. On the other hand, the green/concern groups opposed to the “GB” zoning for the lower section of the riparian area and considered that the whole riparian area of LMH Stream should be zoned “CA” to safeguard its ecological integrity and conserve its high ecological value;
- (c) since there were divergent views on the land use zonings for the riparian area along LMH Stream, AFCD’s further advice regarding the zoning proposal had subsequently been sought and it was considered that the riparian area along LMH upstream area should be rezoned to “GB(1)”.

Like “CA” zone, there was a general presumption against development within the “GB(1)” zone. The proposed “GB(1)” was more restrictive than “GB” zone but less restrictive than “CA” zone. The “GB(1)” zone was proposed after striking a balance between the interests of the local villagers and the concerns of the green/concern groups. As compared with “CA” zone, some village-related developments such as ‘Burial Ground’ and ‘Rural Committee/Village Office’ which were not permitted under “CA” zone might be permitted upon application to the Board under “GB(1)” zone. There was no provision for new Small House applications within “GB(1)” zone and only applications for ‘House (Redevelopment Only)’ could be made in “GB(1)” zone. The main difference between “CA” and “GB(1)” zone was that rebuilding of NTEH and replacement of an existing domestic structure by a NTEH which were not allowed under “CA” zone were permitted under the covering Notes of the OZP for the “GB(1)” zone to respect the needs of the villagers. By comparing “GB” zone and “GB(1)” zone, the uses were more restrictive in “GB(1)” zone for better control of development;

- (d) regarding planning applications for Small House development within “GB” zone, each case would be considered by the Board on its own individual merits in accordance with the ‘Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories’ and ‘Town Planning Board Guidelines on Application for Development within Green Belt Zone under Section 16 of the Ordinance (TPB PG-No. 10)’. Under the Board’s current practice, unless the proposed development would involve extensive tree felling, favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint fell within the “V” zone, and there was a general shortage of land in meeting the demand for Small House development in the “V” zone and the other criteria could be satisfied;
- (e) as for ‘Barbecue Spot’ under Column 2 of “GB(1)” zone, according to Definition of Terms used in Statutory Plans, it referred to barbecue sites managed by the Government and excluded barbecue sites which were

privately owned and/or commercially operated; and

- (f) the imposition of planning restrictions on land was not an infringement of private property right. The ownership status of the private lots and their rights and obligations as stipulated in the leases governing them would remain unchanged. Uses or developments such as agricultural use, rebuilding of NTEH or replacement of an existing domestic structure, etc. would still be allowed under the covering Notes and in the Notes of relevant zones.

82. From the conservation point of view, a Member suggested exploring a mechanism for exchange of private land within “V” zone which was adjacent to LMH Stream and to be more proactive to resolve the conflicts of interests between the local villagers and the green groups for the future development of LMH area.

83. The Secretary said that there were extensive consultations and discussions with green groups/concern groups, local villagers and stakeholders in the course of preparing the draft DPA Plan and draft OZP. The size of the “V” zone was already larger than the ‘VE’ by about 7%. A larger “V” zone had been designated for the village mainly to provide more flexibility in view of the limitations in the area surrounding LMH Stream that might not be suitable for Small House development.

84. In concluding the discussion, Members decided not to uphold the representations R1 to R4. Members then went through the reasons for not upholding the representations as detailed in paragraph 7.1 of the Paper and considered that they were appropriate.

85. After further deliberation, the Board decided not to uphold the representations R1 to R4 and that the Plan should not be amended to meet the representations for the following reasons:

Protection of the lowland streams

- “(a) extensive consultations have been carried out with the green/concern groups, local villagers and stakeholders in the course of preparation of

the DPA Plan and OZP. The divergent views have been fully deliberated by the Board. Appropriate zonings have been designated to those ecologically important areas requiring protection while striking a proper balance between conservation and development needs (R3);

- (b) the OZP prepared generally follows the recommendations of the FCA Study which has taken into account the biodiversity study conducted by KFBG in 2004. The importance of biological diversity has been reflected in the land use zonings of the OZP (R3);

LMH Stream and its riparian area

- (c) noting that the habitat characteristics and site circumstances are not the same along the whole LMH Stream buffer area, the designation of different zonings for the upper and lower sections is appropriate. Designating the buffer area of the upstream section as “GB(1)” is a balancing act to cater for both the need for conservation and development (R1, R2 and R3);
- (d) the Town Planning Ordinance (TPO) and EIAO are two different regimes. Under the TPO, the Board has a duty to consider the zoning of an area having regard to all relevant planning considerations (R2);

Designation of “V” zones

- (e) the boundaries of the “V” zones are defined taking into account the recommendations of the FCA Study and relevant factors such as local topography, settlement patterns, ecologically important area and other site specific characteristics. Further investigation on the species or habitats within the “V” zone is not necessary (R1);
- (f) there is a need to designate suitable “V” zones within the planning scheme area to meet the Small House demand of indigenous villagers in LMH area. A slightly larger “V” zone than the ‘VE’ has been designated

for the LMH Village mainly to provide some flexibility in view of the limitations in the area surrounding the LMH Stream that might not be suitable for Small House development (R2 and R4);

- (g) the sewage disposal and site formation works of Small House will be considered by concerned government departments during the processing of the Small House application by LandsD and have to comply with the requirements of relevant departments (R4); and
- (i) the preparation of VLPs for villages covered by existing OZPs will depend on a number of factors such as implementation prospect of the VLPs and manpower and priority of work within PlanD (R4).

86. The meeting was adjourned for lunch break at 1:45 p.m..

87. The meeting was resumed at 2:45 p.m.

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

Mr Thomas Chow Chairman

Mr Stanley Y.F. Wong Vice-Chairman

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 Lincoln L.H. Huang

Mr Dominic K.K. Lam

Mr H.F. Leung

Mr F.C. Chan

Director of Lands

Ms Bernadette H.H. Linn

Director of Planning

Mr K.K. Ling

Deputy Director of Planning/District

Secretary

Miss Ophelia Y.S. Wong

Deputy Director/Environmental (1)

Environmental Protection Department

Mr C.W. Tse

Sha Tin, Tai Po and North District

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the Draft Ma Tso Lung and Hoo Hok Wai
Outline Zoning Plan No. S/NE-MTL/1
(TPB Paper No. 9525)

[The hearing was conducted in Cantonese.]

89. The Chairman said that the representations and comments would be considered collectively under two groups. The Chairman said that the deliberation session would be held after the presentation and question sessions for all the two groups.

Group 1 : R1 to R6, C1 and C8

90. The Chairman said that reasonable notice had been given to the representers and commenters of Group 1 to invite them to attend the meeting. Members agreed to proceed with the hearing and comments in Group 1 in the absence of the other representers and commenters who had indicated that they would not attend or made no reply to the invitation to the hearing.

91. The following Government representatives and the representers' representatives were invited to the meeting at this point:

- | | | |
|-----------------|---|--------------------------------------------------------------------------------------------|
| Mr C.K. Soh | - | District Planning Officer/Shan Tin, Tai Po and North, Planning Department (DPO/STN, PlanD) |
| Mr Wallace Tang | - | Senior Town Planner/Shan Tin, Tai Po and North, (STP/STN), PlanD |

- Ms Cindy Wong - Town Planner/Sha Tin, Tai Po and North, (TP/STN), PlanD
- Mr Cheung Kwok Wai - Senior Nature Conservation Officer (North), Agriculture, Fisheries and Conservation Department

R1- Green Sense

- Miss Ho Ka Po - Representers' representative

R4 – World Wide Fund for Nature Hong Kong

- Mr Andrew Chan] Representers' representatives
- Mr Tobi Lau]

R5 – Kadoorie Farm and Botanic Garden Corporation

- Ms Woo Ming Chuan]
- Dr Chiu Sein Tuck] Representers' representatives
- Mr Tony Nip]
- Ms Jocelyn Ho]

92. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the background to the representations.

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

Background

- (a) in 2006, the Security Bureau conducted a review of the coverage of the then Closed Area and concluded that the objective of maintaining boundary security could still be achieved even if the existing Closed Area was reduced;

- (b) a Consultancy Study entitled “Study on Land Use Planning for the Closed Area - Feasibility Study” (the FCA Study) was commenced in 2007 and completed in 2010 to formulate a land use planning framework to guide the conservation and development of the Closed Area, based on the principle of sustainable development. The land use framework integrated land use proposals that enhanced conservation, while promoting appropriate development to enhance the livelihood of local residents and prosperity of local economy;
- (c) five draft Development Permission Area (DPA) Plans for the Closed Area were prepared to take forward the recommendations of the FCA Study;
- (d) the key chronology of events for the draft Ma Tso Lung and Hoo Hok Wai Outline Zoning Plan No. S/NE-MTL/1 (the OZP) were:
 - (i) on 30.7.2010, the draft Ma Tso Lung and Hoo Hok Wai DPA Plan No. DPA/NE-MTL/1 (the DPA Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance);
 - (ii) the Town Planning Board (the Board) considered the representations and comment, and, after further review of the land use proposals by PlanD, published an amendment to the draft DPA Plan in relation to the “Village Type Development” (“V”) zone of Liu Pok for public inspection on 16.9.2011. The amendment was to partially meet a representation;
 - (iii) on 21.2.2012, the Chief Executive in Council (CE in C) approved the draft DPA Plan under section 9(1)(a) of the Ordinance;
 - (iv) on 26.4.2013, the Board gave preliminary consideration to the draft OZP and agreed that the draft OZP was suitable for submission to the North District Council (NDC) and Sheung Shui District Rural

Committee (SSDRC) for consultation. NDC and SSDRC were consulted in May 2013 and consultation was also extended to the green/concern groups (including World Wide Fund for Nature Hong Kong (WWF), Kadoorie Farm and Botanic Garden Corporation (KFBG), the Conservancy Association (CA), Designing Hong Kong Limited (DHKL) and Green Power);

- (v) on 28.6.2013, the Board gave further consideration to the draft OZP, together with the comments received from concerned parties;
- (vi) on 19.7.2013, the draft OZP No. S/NE-MTL/1 was exhibited for public inspection under section 5 of the Ordinance. During the exhibition period, a total of six representations and eight comments were received; and
- (vii) on 10.1.2014, the Board decided to consider the representations and comments under two groups;

Planning Scheme Area

- (e) the planning scheme area (the Area) of the draft OZP covered a total area of about 553 ha. It was located approximately 2 km to the northwest of Fanling/Sheung Shui;
- (f) a spectrum of natural habitats including woodland, mixed shrubland, lowland forests, freshwater/brackish wetlands, natural watercourses, abandoned fish ponds and marshy wetland were found in the Area. Hoo Hok Wai (HHW), situated at the northern portion of the Area, was a large plain of ecologically sensitive area which consisted of a range of ponds, marsh, reedbeds and seasonally wet grassland. Ho Sheung Heung Egretty, an important breeding site for ardeids particularly for Chinese Pond Heron, was located near Ngam Pin;

- (g) there was one recognised village within the Area, namely Liu Pok. Only small-scale cultivated land and livestock farms were found near the settlements. There were no significant economic activities in the Area;

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

General Planning Intention

- (h) the general planning intention of the Area was to strengthen nature conservation, promote sustainable eco-tourism and cross-boundary development. It was also the planning intention to retain good quality agricultural land for agricultural purposes or leisure farming and to preserve the existing heritage features and historic buildings;

Representations and Representers' Proposals

- (i) three representations submitted by the green/concern groups (i.e. Green Sense, CA and WWF) supported the proposed "Conservation Area" ("CA") and/or "CA(1)" zones of the OZP while one representation submitted by an individual (R2) raised concern on the effectiveness of the "CA(1)" zone in deterring unauthorised developments. The other two representations from other green/concern groups (i.e. KFBG and DHKL) objected to the OZP in general and considered the areas zoned "V" excessive;
- (j) the main grounds of the representations as summarised in paragraph 2.2 of the Paper were:

Protection of the lowland streams

- (i) KFBG had carried out a detailed biodiversity study in some rural areas which had reinforced earlier findings of the high ecological value of the lowland streams in the former Frontier Closed Area (FCA). The submissions and recommendations on the protection of ecological habitats, however, had not been given due

consideration by the Government in the plan-making process (R5);

- (ii) the Authority was not paying sufficient attention to the obligations of the Convention on Biological Diversity (the Convention) which required the protection of important habitats especially ecosystems in pristine condition using a holistic approach. The obligations of the Convention should be reflected in the zonings of the OZP (R5);
- (iii) in the four letters/joint letters attached to R5's representation, the green/concern groups mainly suggested, among others, protection measures for habitats of high ecological value; and pointed out the adverse impact of inappropriate zoning on local conservation and landscape heritage (R5);

Protection of the fish ponds and marshes in HHW

- (iv) the designation of the extensive fish ponds and freshwater marshes in HHW as "CA(1)" was appropriate to reflect the ecological value of the HHW wetland system and ecological linkage with the adjacent wetland in Ho Sheung Heung, Lok Ma Chau Loop (LMC Loop), San Tin, Mai Po and the rest of the Deep Bay area (R3);
- (v) HHW was an important component of the Deep Bay ecosystem which provided foraging and roosting grounds for water birds. It also contained distinctive wetland habitats that were different from other wetland system in Deep Bay. By restricting further developments within the area through statutory planning control, it would provide a stable environment for the fish pond operators and support their livelihood, while their management practices, such as draining method and vegetation management, could continue to provide environmental benefits to the wildlife (R4);
- (vi) with the opening up of the Closed Area Boundary and future developments in LMC Loop and Kwu Tung North New

Development Area (KTN NDA), the accessibility of HHW would be improved leading to increasing development pressure and possible illegal fly-tipping or pond/land-filling activities (R4);

- (vii) in view of the remote location of HHW, there would be difficulties for the Government to deter 'destroy first, build later' activities (R2);

Ma Tso Lung Stream (MTL Stream)

- (viii) according to the LMC Loop Environmental Impact Assessment (EIA), the ecological value of the lower section of MTL Stream was rated as 'moderate to high' for its potential in providing habitat for some endangered species. Therefore, MTL Stream and its riparian area should be zoned as "CA" to provide better protection to the stream ecology (R3);

Designation of "V" zones

- (ix) survey should be conducted to ensure that species or habitats of conservation interest and agricultural land with good quality, which might exist in the "V" zones, could receive better protection by conservation zonings (R3);

- (x) the demand of Small Houses was infinite and should be contained within existing village 'environs' ('VE') or "V" zone. Designating new "V" zone was contradictory to this containment policy (R6);
and

[Ms Julia M.K. Lau and Mr C.W Tse returned to join the meeting at this point.]

- (xi) the former FCA had high landscape and ecological values and all developments within the area should meet the highest landscape, streetscape and environmental standards and must be subject to sustainable infrastructure layout plans and guidelines. However, the lack of village layout and infrastructure support within the "V"

zone might lead to environmental deterioration (R6);

- (k) the representers' proposals as summarised in paragraph 2.3 of the Paper were:

Protection of fish ponds and marshes in HHW

- (i) the principle of “no-net-loss in wetland” in Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12B) should be adopted to protect the ecological habitat in HHW (R1, R2 and R4);
- (ii) HHW should be designated as Wetland Conservation Area (WCA) and Wetland Buffer Area (WBA) in TPB PG-No. 12B, as part of the wetland system in Deep Bay area (R2);
- (iii) the Deep Bay Buffer Zones I and II under the EIA Ordinance should be extended to cover HHW such that under the EIA mechanism, residential developments would be designated projects and the project proponents would be required to implement mitigation measures to ensure that the proposed development would not result in any adverse environmental impacts (R4);
- (iv) a participatory approach should be adopted to formulate a holistic conservation plan to conserve the Deep Bay wetlands as a whole, and action plan should be formulated to protect the Eurasian Otter which was sighted only in the Deep Bay area (R4); and

MTL Stream

- (v) MTL Stream and its riparian area should be zoned as “CA” (R3);

- (l) responses to the representers' views and their proposals as summarised in paragraph 5.13 of the Paper were:

Protection of the lowland streams

- (i) extensive consultations with green groups, local villagers and stakeholders had been carried out in the course of preparing the draft DPA Plan and draft OZP with a view to taking forward the recommendations of the FCA Study. The Board had also heard and considered the representations and comment in respect of the draft DPA Plan in accordance with the statutory requirements under the Ordinance. The views and comments raised by the green groups on the FCA including the conservation of ecological habitats in HHW and MTL Stream and its riparian area had been fully deliberated by the Board (R5);
- (ii) the Ho Sheung Heung Egretty, fish ponds in HHW and secondary woodland which were considered as having high ecological value had already been zoned "CA", "CA(1)" and mainly "Green Belt" ("GB") under the current OZP. The OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBG in 2004. Moreover, in the course of preparing the OZP, all major stakeholders including the green groups, local villagers and Rural Committees had been consulted and their views had been taken into account in drawing up the OZP. The OZP had struck a balance between conservation needs and the development needs of the villagers (R5);

Protection of fish ponds and marshes in HHW

- (iii) according to the Notes of "CA(1)" zone, 'Agricultural Use (Fish Pond Culture Only)', 'Wetland Habitat' and 'Wild Animals Protection Area', which were related to the conservation of the ecological habitat of wetland and fish ponds, were Column 1 uses whereas 'House (Redevelopment only)' use and other development

related uses were Column 2 uses requiring planning permission from the Board. All uses involving filling of pond or diversion of streams required planning permission from the Board. Moreover, any unauthorised development would be subject to enforcement action by the Planning Authority according to the Ordinance. Given these planning control measures, the improvement in the accessibility of HHW in future would not affect the protection of the ecologically important habitats in the area. The designation of “CA(1)” zoning was in fact an effective planning control tool to assist the Government in the conservation of the ecology within the area (R2 and R4);

- (iv) the “no-net-loss in wetland” principle for any change in use within the “CA(1)” zone had been stipulated in the Notes of the OZP. As such, the guiding principles of the ‘precautionary approach’ and “no-net-loss in wetland” as enshrined in the TPB PG-No. 12B had already been in place for the protection and conservation of the contiguous and ecologically sensitive wetland complex in HHW. The TPB PG-No. 12B was currently under review to incorporate the HHW area (R1, R2 and R4);
- (v) the Director of Agriculture, Fisheries and Conservation (DAFC) shared the views to formulate a holistic conservation plan for the Deep Bay wetlands and an Eurasian Otter action plan, and would consider the proposals under the scope of Biodiversity Strategic and Action Plan (BSAP) administered by Agriculture, Fisheries and Conservation Department (AFCD) (R4);

MTL Stream

- (vi) MTL Stream flowed through the areas falling within the Kwu Tung North (KTN) OZP and the Ma Tso Lung and Hoo Hok Wai OZP. According to the FCA Study, MTL Stream, suitable for native fish and odonate species, was considered to have ‘moderate to high’

ecological value. The riparian area of the stream was zoned “Agriculture” (“AGR”) on the OZP. Subsequently, upon excise of the southern area for incorporation into the KTN OZP, the upper/middle sections of the stream were now zoned “GB” on the KTN OZP taking into account the concerns of the Advisory Committee on Environment (ACE) in consideration of the EIA report for the KTN NDA (R3);

- (vii) the riparian area of the middle/lower sections of MTL Stream in the OZP was predominately covered by weeds and shrubs. As the stream itself was not a ‘Site of Special Scientific Interest’ (SSSI) nor an ‘Ecologically Important Stream’ (EIS) and “AGR” was not a development zone and any diversion of stream and filling of pond would require planning permission from the Board, effective planning control could be exercised to ensure protection of the natural environment on both sides of the stream (R3);

- (viii) subsequent to ACE’s comments on the EIA report for the KTN NDA in relation to the zoning for the riparian area of MTL Stream, DAFC considered that the same “GB” zoning could be adopted for the riparian area in the middle/lower sections of MTL Stream within the OZP for better protection of the stream. Nevertheless, as the Eastern Connection Road (ECR) proposed under the LMC Loop Study connecting KTN with LMC Loop area would route through the Ma Tso Lung (MTL) area and the alignment and detailed design of ECR were yet to be finalised, it was considered that the current “AGR” zoning for the middle/lower sections of MTL Stream should be maintained pending a comprehensive land use review to be carried out when more details of ECR were available (R3);

- (ix) in the LMC Loop Study EIA report completed in 2013, MTL Stream was also considered having ‘moderate to high’ ecological value but the channelised lower section near HHW was rated as ‘low to

moderate’;

Designation of “V” zones

- (x) the zonings of the Plan generally followed the recommendations of the FCA Study and the ecologically sensitive areas (e.g. fish ponds in HHW, Ho Sheung Heung Egretry, and secondary woodland) had been covered by appropriate conservation zonings including “CA” and “GB”. The boundaries of the “V” zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as the ‘VE’, Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics. In this regard, DAFC considered that further investigation on the species or habitats within the “V” zone was not necessary (R3);
- (xi) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the recognised village of Liu Pok (R6);
- (xii) the sewage disposal and site formation works of Small House would be considered by concerned departments during the processing of the Small House application by the Lands Department (LandsD). The arrangement of sewage disposal and carrying out of site formation works should comply with the requirements from the relevant government departments (R6); and
- (xiii) PlanD would continue to monitor the situation and update the existing village layout plans (VLPs), if required. The preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD (R6);

- (m) C1 and C8 were submitted by members of public whereas C2 to C7 were submitted by SSDRC, San Tin Rural Committee and local villagers;
- (n) major grounds of comments as summarised in paragraphs 3.1 to 3.3 of the Paper were:
 - (i) C1 supported R2, R4 and R6 on the grounds that HHW was an important wetland and hinterland for the Deep Bay wetland ecosystem and should be zoned as “CA”, and no “V” zone should be designated in the area given its ecological significance, and lack of accessibility and infrastructure;
 - (ii) C2 to C6 raised objection to the OZP on the grounds that the conservation zone was too excessive, and would deprive the development right of the land owners without compensation and increase the risk of the outbreak of avian influenza. The area should be reserved for future residential development;
 - (iii) C7 considered that the fish ponds in HHW should be reverted back to farmland for agricultural purpose of Liu Pok villagers; and
 - (iv) C8 commented that the planning scheme area was close to the study area of the Preliminary Feasibility Study on Developing the New Territories North (the NT North Study). If the draft OZP was approved, it would pre-empt the long-term planning intention for the study area;
- (o) responses to comments as summarised in paragraphs 5.14 to 5.18 of the Paper were:
 - (i) C1’s support to the views of R2, R4 and R6 was noted;
 - (ii) the largest conservation zone of the plan was the “CA(1)” zone at

HHW which mainly covered the fishponds. According to the FCA Study, HHW, as part of the Deep Bay wetland ecosystem, was considered to have high ecological value. In this regard, the designation of the fish ponds in HHW as “CA(1)” zoning with the intention to conserve the ecological value of wetland and fish ponds was considered appropriate and in line with the FCA Study findings (C2 to C7);

- (iii) DAFC considered that C4’s concern on avian influenza was irrelevant to the designation of the HHW area as conservation zoning under the draft OZP;
- (iv) as regards C7’s comment that the fish ponds in HHW should be reverted for farming purpose, it should be noted that the proposed “CA(1)” zoning for the HHW area was intended to conserve the ecological value of wetlands and fish ponds in HHW area which had been confirmed by the HHW Study. Filling of ponds was therefore not supported. As the land involved was agricultural land and ‘Agricultural Use (Fish Pond Culture Only)’, which was a form of agricultural use, was always permitted under “CA(1)” zone, the questions of depriving development right or compensation should not arise (C7);
- (v) C8’s comment was not related to the draft OZP and the six representations received. The NT North Study was a strategic planning study to examine the development opportunities and constraints of the NT North and had no direct relationship with or implications on the draft OZP; and

PlanD’s Views

- (p) based on the planning considerations and assessment in paragraph 5 of the Paper, PlanD’s views were:

- (i) the part of representations of R1, R3 and R4 in support of the “CA” and/or “CA(1)” zone and R2 and R4’s proposal to designate HHW as WCA and WBA were noted;
- (ii) the remaining part of representations R1, R3 and R4 and the whole of representations R5 and R6 and their proposals were not supported; and
- (iii) the representations R1 to R6 should not be upheld and the Plan should not be amended to meet the representations.

94. The Chairman then invited the representers’ representatives to elaborate on their representations.

R1 – Green Sense

95. With the aid of a Powerpoint Presentation, Miss Ho Ka Po made the following main points:

- (a) while the representation hearing process of the draft OZP No. S/NE-MTL/1 was yet to be completed, the prevailing draft OZP No. S/NE-MTL/2, which involved the excision of two pieces of land in the southern part of the Area for incorporation into the new KTN OZP, was exhibited for public inspection on 20.12.2013;
- (b) given the proximity of HHW to the Loop Area, the existing wetlands of the HHW area, which provided an ecological linkage with the adjacent wetland in the Deep Bay area, should be duly protected in the future development of the Loop Area. The ECR proposed under the LMC Loop Study connecting KTN and the Loop Area should not route through the existing wetlands in HHW;
- (c) the designation of extensive fish ponds in HHW as “CA(1)” under the

OZP was supported and the level of conservation should be enhanced. Moreover, the principle of “no-net-loss in wetland” should be adopted to protect the ecological habitat in HHW; and

- (d) the future development of the Closed Area, which was adjacent to the proposed NDAs, should be carefully planned to avoid urbanisation of the rural area.

R4 – WWF

96. With the aid of a Powerpoint presentation, Mr Tobi Lau made the following main points:

- (a) the conservation zoning of the fish ponds in HHW was supported;
- (b) he understood from the fish pond operators that about one-third of the fish ponds in the area had been purchased by the private developers. Moreover, the fish ponds were only leased for a shorter term of two to three years now instead of 10 years in the past;
- (c) in end 2013, excavation works at the bund of the fish ponds were spotted by some fish pond operators. Such activity was uncommon for fish pond culture as it would result in the drying up of fish ponds and the ecological value of the existing fish ponds would be adversely affected; and
- (d) PlanD should take prompt action to revise the TPB Guidelines No. 12B to designate the HHW area as WCA and WBA in order to enhance protection of the existing fish ponds.

R5 – KFBG

97. With the aid of a Powerpoint presentation, Ms Jocelyn Ho made the following main points:

- (a) she was a member of the Hong Kong Bird Watching Society (HKBWS);

Extension of WCA and WBA boundary

- (b) HKBWS appreciated the conservation zoning for the fish ponds in the HHW area, supported the application of the ‘no-net-loss of wetland’ principle in the “CA(1)” zone, and proposed the extension of WCA and WBA boundaries of the TPB Guidelines No. 12B to the “CA(1)” zone of the HHW area;
- (c) the high ecological value of the MTL and HHW area was recognised by a number of studies, locally and internationally, as well as historically and recently;
- (d) the MTL and HHW area was internationally recognised by the Birdlife International as a globally important wetland site that supported very large numbers of passage and wintering waterbirds including several threatened species;
- (e) according to PlanD’s Study on the Ecological Value of Fish Ponds in Deep Bay Area completed in 1997, it was recommended that ‘*all the existing active and abandoned fish ponds forming a continuous wetland habitat in MTL, San Tinm Mai Po, Nam Sang Wai and Tsim Bei Tsui, ... could be zoned as WCA under the OZPs*’. The study recommendations subsequently formed the basis for drawing up the boundary of WCA of the TPB Guidelines No. 12B;
- (f) HKBWS had been conducting the Mai Po Inner Deep Bay Ramsar Site Monitoring Programme since 2000 and had undertaken a Fishpond Management Agreement Programme in the Northwest New Territories in the last two years. Based on the recent findings of these programmes, 125 bird species including waterbirds and wetland-dependent species were spotted in the area, amongst which 53 were species of conservation importance. Two endangered species, i.e. Black-faced Spoonbill and

Yellow-breasted Bunting, and one vulnerable species, i.e. Japanese Yellow Bunting, were also found. The area, which occupied less than 1% of the total land area of Hong Kong, had accounted for 24% of the total bird species found in Hong Kong. Hence, the diversity of bird species in the area was high and the abundance of birds was also large;

- (g) the fishponds in the MTL and HHW area, providing a foraging ground for the egrets, were also important to the Ho Sheung Heung Egretty in the vicinity, which was the third largest egretty in Hong Kong;
- (h) the diversity of bird species recorded in MTL was higher than other fish ponds in Nam Sang Wai, Fung Lok Wai and Tai Sang Wai, which had been designated as WCAs. Moreover, the abundance of birds in MTL was also comparable to that of other WCAs. Hence, there was no strong reason for not including the fish ponds in MTL and HHW into the WCA boundary;
- (i) the extension of the WCA boundary to include the fish ponds in the area would provide a better protection for “CA(1)” zoning in that the ‘no net-loss of wetland’ principle would be adhered to and a buffer area would be provided. Besides, any development in WBA would require EIAs to ensure no net increase in pollution load and could limit the extension of open storage uses into this area;

“V” zone of Liu Pok Village

- (j) the existing “V” zone of Liu Pok Village had included freshwater marsh and reedbed identified in the FCA Study. The marsh was an important habitat for some species of conservation importance, such as Scarlet Basker, Eurasian Otter and Two-striped Grass Frog. Besides, Burmese Python, a vulnerable species identified by the International Union for Conservation of Nature (IUCN) and a critically endangered species of the China Data Red Book, was also found in the marsh area of Liu Pok;

- (k) the freshwater/brackish wetland was a rare type of habitat as it only accounted for 0.44% of the area of the Hong Kong's habitats. Moreover, it was also classified by AFCD as a high value ecological habitat. To avoid the destruction of the marsh habitat by the uncontrolled development of New Territories Exempted Houses, the size of "V" zone of Liu Pok Village should be reduced and a "CA" zoning should be designated for the marsh area; and
- (l) to conclude, the Board was requested to note the scientific evidence showing the importance of the MTL and HHW area as well as the findings of protected species and important marsh habitat at Liu Pok conducted by HKBWS. Moreover, the Board was also requested to extend the WCA and WBA boundaries to cover the existing fish ponds in MTL and HHW, to reduce the "V" zone of Liu Pok and to introduce a "CA" zoning to the marsh area.

98. Mr Tony Nip made the following main points:

- (a) PlanD had not taken in account the findings of the FCA Study in preparing the OZPs for the Closed Area;
- (b) MTL Stream had been identified as of high ecological value in a number of EIAs including the NENT NDA EIA and the LMC Loop EIA as it was an important habitat for a critically endangered species;

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

- (c) the existing "AGR" zoning for MTL Stream was inappropriate as it could not reflect the high ecological value of the stream and could not provide sufficient protection for the area. Upon completion of the LMC Loop Study and the finalisation of the ECR alignment, it was considered that the land uses in the vicinity of MTL Stream and its riparian area should be reviewed and designated as "CA" in future; and

- (d) the high ecological value of HHW was mainly contributed by the existing fish ponds which had provided an important foraging ground for a great varieties of wetland birds. The reversion of fish ponds to agricultural land, as proposed by others, would have adverse impact on the ecological value of the HHW wetlands and would likely arouse international concern.

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

100. In response to a Member's question on whether the existing firing range in the southern part of the Area would have any impact on the birds of the HHW wetlands, Mr Tony Nip (R5) said that since the firing range was distant from the fish ponds in HHW, it would not have any impact on the existing birds found in the HHW wetlands.

101. As the representers' representatives of Group 1 had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and inform the representers of the Board's decision in due course. The Chairman thanked the representers' representatives for attending the hearing. They left the meeting at this point.

Group 2 : C2 to C7

102. The Chairman said that reasonable notice had been given to the commenters of Group 2 to invite them to attend the meeting. Members agreed to proceed with the hearing of the comments in Group 2 in the absence of the other commenters who had indicated that they would not attend or made no reply to the invitation to the hearing.

103. The following commenters' representatives were invited to the meeting at this point:

C2- SSDRC

Mr Hau Chi Keung] Commenter's representatives
Mr Hau Wing Kong]

C7 – Indigenous Villagers of Liu Pok Village (with signatures of 13 villagers)

Mr Fung Hing Chau]
Mr Fung Wai Fat]
Mr Fung Siu Wah]
Mr Fung Ngan Shui]
Mr Fung Chau Chuen]
Mr Fung Hon Chor]
Mr Fung Kan Pui]
Mr Fung Shu Fong]
Mr Fung Chau Hoi] Commenter's representatives
Mr Fung Shu Tam]
Mr Deng Ren Ming]
Mr Lee Koon Sin]
Mr Lo Xiao Kim]
Mr To Kwai Chi]
Ms Chow Sok Ming]
Mr Fung Yat Sun]
Mr Chan Chi Nam]
Mr Fung Hong Kwong William]
Mr Fung Kan Pong]
Mr Fung Kai Wing]

104. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the commenters' representatives to elaborate on their comments.

C2 – SSDRC.

105. Mr Hau Chi Keung made the following main points:

- (a) the MTL, HHW and Liu Pok area had been designated as a Closed Area

for more than 100 years. After that, the local villagers began to emigrate overseas to make a living. With the opening up of the Closed Area, the local villagers expected that the development potential of their land would be revived;

- (b) the property right of the local villagers was not respected as more than 90% of their land was zoned “GB” and any development on their own land would require planning permission from the Board. However, the local villagers were not compensated for their loss;
- (c) while the local villagers recognised the conservation need for the area, they considered that a careful balance between conservation and development should be struck in planning the future land use of the Closed Area;
- (d) prior to the formulation of a compensation policy by the Administration, it was unfair to zone the private land of the local villagers as “GB”; and
- (e) SSDRC had previously written two letters to the Development Bureau, PlanD and other concerned departments suggesting the Government to carefully plan the land released from the opening up of the Closed Area (about 2,800 ha) in order to better utilise the scarce land resources of the territory. Consideration should be given to provide a hospital to meet the imminent need of the existing population and the future residents of the NENT NDA. Besides, given the proximity of the Area to the three railway stations, i.e. the existing LMC and Lo Wu stations and the proposed Kwu Tung North Station, the Area was considered suitable for some low-density developments, such as commercial and exhibition centre, hotel/hostel as well as international school, which would complement the future developments of the Loop Area.

106. Mr Hau Wing Kong made the following main points:

- (a) his presentation was made on behalf of the villagers of Liu Pok;
- (b) the villagers were dissatisfied that the Government had zoned their private land as “GB” without prior consultation with them. The Government should resume the villagers’ land if it wanted to promote conservation of the Area;
- (c) the current planning had ignored the development needs of the private land owners and the need of the local villagers to have more “V” land to meet their future demand of Small House; and
- (d) the Government was requested to replan the Area in consultation with the local villagers such that their needs could be duly considered.

C7 – Indigenous Villagers of Liu Pok Village

107. Mr Fung Hing Chau made the following main points:

- (a) he was a village representative of Liu Pok Village;
- (b) the villagers used to practise farming in the village in the past. Since the younger generation had moved overseas to earn a living, the agricultural land was abandoned and converted to fish ponds for lease to others. Recently, the local villagers would like to revert the fish ponds to agricultural land for organic farming. However, the designation of the area as “CA(1)” had prohibited such conversion; and
- (c) given that there was a pressing need for more housing land, the designation of a vast area under conservation zonings in order to protect the bird species was not an optimal utilisation of scarce land resources.

108. Mr Fung Wai Fat made the following main points:

- (a) he was a village representative of Liu Pok Village;
- (b) the local villagers were not properly consulted before their land was designated as “GB”;
- (c) there was inadequate infrastructure and road access for the area;
- (d) the “V” zone was insufficient to meet the future demand of Small House of Liu Pok Village; and
- (e) the designation of any private land under “GB” zoning was strongly objected to as the development right of land owners would be adversely affected.

109. Mr Fung Siu Wah made the following main points:

- (a) he was a villager of Liu Pok Village and his family owned some land in the HHW area;
- (b) since the abandonment of agricultural activities in the area, the local villagers had converted the original farmland to fish ponds and let them out to earn a living. However, the local villagers could seldom receive any rent from their tenants and they had been suffering from financial loss for decades. With the cessation of some fish culture activities in the area, the existing fish ponds had remained intact for more than 20 years;
- (c) if it was the Government’s intention to preserve the existing fish ponds in the area, it should pay rent to the land owners. The local villagers strongly objected to the designation of “CA(1)” zoning for this area;
- (d) in the course of planning the future land use for the Area, PlanD had ignored the needs of the local villagers and disregarded their problems. Moreover, there was a lack of understanding about the history of the fish

pond development in the area;

- (e) given the close proximity of the Area to the Loop Area, it was difficult to understand why the Government land in the Loop Area could be developed for higher educational uses while the private land in HHW should be retained for fish pond use. PlanD's authority over the future use of private land was too great;
- (f) the planning officials should take the initiative to meet the local villagers of MTL and Liu Pok to have a better understanding of their needs and listened to their views on sustainable development. The current planning for the Area, which was pro-conservation, should be temporarily suspended pending the results of the consultation with the local villagers; and
- (g) the consultation period should be extended to facilitate further discussion between PlanD and the local villagers.

110. Mr Fung Ngan Shui made the following main points:

- (a) he was a villager of Liu Pok Village;
- (b) the Government had been biased towards environmental conservation in the planning of the Area. The right of the villagers to use their private land for residential development was deprived of under the current planning;
- (c) the Shenzhen area on the other side of Shenzhen River had been developed into high-rise residential developments. It was unreasonable that the villagers' land within the Area, having the same condition and topography as that of the Shenzhen area, were not allowed for residential developments;

- (d) land within the Area could provide the much needed housing land to meet the territorial demand. The local villagers strongly objected to the conservation zonings of the Area and considered that the Area should be properly replanned in consultation with the local villagers; and
- (e) the boundary of “V” zone should be extended to meet the ever-increasing Small House demand of the indigenous villagers.

111. Mr Hau Chi Keung (C2) requested that the MTL, HHW and Liu Pok area should be carefully replanned by the Government taking into account the views presented by the local villagers at this meeting. He then submitted a copy of the SSDRC’s two previous letters (i.e. a letter dated 29.10.2010 to the Secretary for Development and another letter dated 30.8.2011 to the Director of Planning), putting forward their proposals relating to the planning of the Area, to the Chairman for reference.

112. Mr Hau Wing Kong (C2) invited PlanD to have a separate meeting with SSDRC and the villagers of Liu Pok Village in order to have a better understanding of their needs.

113. The Chairman said that while Mr Hau’s request for a separate meeting with PlanD was noted, the meeting of the Board was conducted to consider the representations and comments to the draft OZP which was part of the statutory plan-making process.

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

115. A Member raised the following questions:

- (a) where was the agricultural land in Liu Pok Village;
- (b) noting that Liu Pok Village only occupied a small area in the HHW area, what was the peak population of the village and how much land had been put under agricultural use when the village had its peak population; and

- (c) how much land in the HHW area was still under the ownership of the local villagers.

116. At the request of the Chairman, Mr C.K. Soh presented a plan showing the boundary of “V” zone and ‘VE’ of Liu Pok Village. Mr. Soh said that the “V” zone and ‘VE’ were equivalent in area (about 6.34 ha). The topography to the south and south-east of the “V” zone was mostly highland while flat land was found to the north and north-west of the “V” zone. A small piece of land to the immediate west of the “V” zone was used for agricultural activities.

117. Mr Hau Chi Keung said that the total population of Liu Pok Village was about 600 to 700 in the past and around 1,000 at present. In the past, a large number of local villagers from Liu Pok Village as well as those from other nearby villages of MTL and Chek Mei (赤尾) used to practise farming in the Area. With the abandonment of agricultural activities in the Area in the last few decades, some of the agricultural land was sold to others. The current land owners, irrespective of whether they were local villagers or not, were relevant stakeholders and their development rights had been affected by the conservation zonings for the Area. Moreover, he opined that there was no direct relationship between the number of villagers of Liu Pok Village and the area of land under cultivation.

118. Mr Fung Siu Wah said that although the ‘VE’ of Liu Pok Village was small, the local villagers had purchased substantial land parcels in D.D. 93 and 96 and the coverage of land owned by the local villagers were far more extensive than the existing “V” zone. He learnt from his mother and other elderly that prior to the emigration of the local villagers to overseas countries, majority of land owned by the local villagers was put into agricultural use, such as padi field.

119. Mr Fung Chau Chuen, a village representative of Liu Pok Village, said that all the land in D.D. 96 was owned by the villagers of Liu Pok Village in the past. Currently, majority of land in D.D. 93 and 96 was still under the ownership of local villagers.

120. Mr Fung Ngan Shui said that the villagers of Liu Pok Village had never

requested the Government to plan their land. The current planning had frozen the development right of their private land resulting in depreciation of land value.

121. As the commenters' representatives of Group 2 had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and inform the commenters of the Board's decision in due course. The Chairman thanked the commenters' representatives and the Government representatives for attending the hearing. They all left the meeting at this point.

122. The meeting was adjourned for a short break of 3 minutes.

Deliberation

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

124. In relation to the commenters' request to extend the consultation period of the OZP to facilitate further discussions with the local villagers, the Chairman said that extensive consultations with green/concern groups, local villagers and stakeholders had been carried out in preparing the statutory plans for the FCA. The publication of the draft OZP for public inspection and the conduct of hearing for the representations and comments received were part of the public consultation process which had been carried out in accordance with the statutory provisions. The Chairman suggested and Members agreed that the request should not be acceded to.

125. Members noted the following responses to the grounds of representations as suggested by PlanD:

- (a) the OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBG in 2004. Moreover, in the course of preparing the OZP, all major stakeholders

including the green groups, local villagers and Rural Committees had been consulted and their views had been taken into account. It was considered that the OZP had struck a balance between conservation needs and the development needs of the villagers;

- (b) the designation of “CA” and “CA(1)” zones on the OZP generally followed the recommendations of the FCA Study and other relevant planning considerations;
- (c) the “no-net-loss in wetland” principle for any change in use within the “CA(1)” zone had been stipulated in the Notes of the OZP. The designation of “CA(1)” zoning was in fact an effective planning control tool to assist the Government in the conservation of the ecology within the area;
- (d) MTL Stream itself was not a ‘SSSI’ nor an ‘Ecologically Important Stream’ and “AGR” was not a development zone and any diversion of stream and filling of pond would require planning permission from the Board. It was considered that effective planning control could be exercised to ensure protection of the natural environment on both sides of the stream. The current “AGR” zoning for the middle/lower sections of MTL Stream should be maintained pending a comprehensive land use review to be carried out when more details of ECR were available;
- (e) the boundary of “V” zone was carefully defined taking into account the recommendations of the FCA Study and various other factors such as Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics;
- (f) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the recognised village of Liu Pok. As the “V” and ‘VE’ of Liu Pok Village were equal in area, there was no need to amend the boundary of the “V” zone;

- (g) the arrangement of sewage disposal and carrying out of site formation works for Small House development should comply with the requirements from the relevant government departments; and
- (h) the preparation of new VLPs for villages would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD.

126. In response to a Member's concern on whether the boundary of WCA and WBA of TPB Guidelines No. 12B could be extended to cover the existing fishponds in the HHW area, the Secretary said that upon completion of an ecological appraisal of the fish ponds in HHW by the Government, the principle of "no-net-loss in wetland" as enshrined in the TPB Guidelines No. 12B had already been in place under the "CA(1)" zone on the OZP for the protection and conservation of the existing fish ponds. The TPB Guidelines No. 12B was currently under review to incorporate the HHW area.

127. In view of the above, Members noted part of representations of R1, R3 and R4 in support of the "CA" and/or "CA(1)" zones of the OZP and R2 and R4's proposal to designate HHW as WCA and WBA. Members did not support the remaining part of representations R1, R3 and R4 and the whole of representations R5 and R6, as well as their proposals and decided not to uphold representations R1 to R6.

128. Members then went through the reasons for not upholding representations R1 to R6 as detailed in paragraph 7.1 of the Paper and considered that the reasons were appropriate.

Group 1 – Representations No. R1 to R6

129. After further deliberation, Members decided not to uphold representations R1 to R6 for the following reasons:

- “(a) extensive consultations have been carried out with the green/concern groups, local villagers and stakeholders in the course of preparation of the

DPA Plan and OZP. The divergent views have been fully deliberated by the Board. Appropriate zonings have been designated to those ecologically important areas requiring protection while striking a proper balance between conservation and development needs (R5);

- (b) the OZP prepared generally follows the recommendations of the FCA Study which has taken into account the biodiversity study conducted by KFBG in 2004. The importance of biological diversity has been reflected in the land use zonings of the OZP (R5);
- (c) the designation of “CA(1)” zoning for the ecologically important fish ponds and marshes in Hoo Hok Wai is considered an effective planning tool to protect and conserve the ecological habitats there. Besides, under the EIAO, environmental permits are required for any development within areas covered by “CA(1)” zoning. Unauthorised development within the area will be subject to enforcement action of the Planning Authority (R1, R2 and R4);
- (d) the guiding principles of the ‘precautionary approach’ and “no-net-loss in wetland” as enshrined in the TPB PG-No. 12B have been adopted for the protection and conservation of the wetland ecosystem in Hoo Hok Wai. The TPB PG-No. 12B is currently under review to incorporate the Hoo Hok Wai area (R1, R2 and R4);
- (e) the formulation of a holistic conservation plan for the Deep Bay wetlands and Eurasian Otter action plan fall outside the purview of the Board but would be considered under the scope of BSAP administered by AFCD (R4);
- (f) the land uses along the middle/lower sections of Ma Tso Lung Stream would be comprehensively reviewed pending the availability of more details of the design and alignment of the ECR to the LMC Loop. Meanwhile, effective planning control could be exercised to ensure protection of the natural

environment on both sides of the stream under the current “AGR” zoning on the OZP (R3);

- (g) the boundaries of the “V” zones are defined taking into account the recommendations of the FCA Study and various factors such as local topography, settlement patterns, ecologically important area and other site specific characteristics. Further investigation on the species or habitats within the “V” zone is not necessary (R3);
- (h) there is a need to designate suitable “V” zone within the planning scheme area of the Plan to meet the Small House demand of indigenous villagers in Ma Tso Lung and Hoo Hok Wai area (R6);
- (i) the sewage disposal and site formation works of Small House will be considered by concerned government departments during the processing of the Small House application by LandsD and have to comply with the requirements of relevant departments (R6); and
- (j) the preparation of VLPs for villages covered by existing OZPs will depend on a number of factors such as implementation prospect of the VLPs and manpower and priority of work within PlanD (R6).”

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comment to the Draft Sha Tau Kok Outline Zoning Plan
No. S/NE-STK/1
(TPB Paper No. 9521)

[The hearing was conducted in Cantonese.]

130. The Chairman said that the representations and comment would be considered collectively under two groups. The Chairman said that the deliberation session would be held after the presentation and question sessions for all the two groups.

Group 1 : R1 to R4 and C1

131. The Chairman said that reasonable notice had been given to the representers and commenter of Group 1 to invite them to attend the meeting. Members agreed to proceed with the hearing in Group 1 in the absence of the other representers and commenter who had indicated that they would not attend or made no reply to the invitation to the hearing.

132. The following Government representatives and representers' representatives were invited to the meeting at this point:

Mr C.K. Soh	-	District Planning Officer/Shan Tin, Tai Po and North, Planning Department (DPO/STN, PlanD)
Mr Wallace Tang	-	Senior Town Planner/Shan Tin, Tai Po and North, (STP/STN), PlanD
Ms Cindy Wong	-	Town Planner/Shan Tin, Tai Po and North, (TP/STN), PlanD
Mr Cheung Kwok Wai	-	Senior Nature Conservation Officer (North), Agriculture, Fisheries and Conservation Department

R2 – World Wide Fund for Nature Hong Kong

Mr Andrew Chan]	Representer's representatives
Mr Tobi Lau]	

R3 – Kadoorie Farm and Botanic Garden Corporation

Dr Chiu Sein Tuck]	Representer's representatives
Mr Tony Nip]	

133. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the background to the representations.

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

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

Background

- (a) in 2006, the Security Bureau conducted a review of the coverage of the then Closed Area and concluded that the objective of maintaining boundary security could still be achieved even if the existing Closed Area was reduced;
- (b) a Consultancy Study entitled “Study on Land Use Planning for the Closed Area - Feasibility Study” (FCA Study) was commenced in 2007 and completed in 2010 to formulate a land use planning framework to guide the conservation and development of the Closed Area, based on the principle of sustainable development. The land use framework integrated land use proposals that enhanced conservation, while promoting appropriate development to enhance the livelihood of local residents and prosperity of local economy;
- (c) five draft Development Permission Area (DPA) Plans for the Closed Area were prepared to take forward the recommendations of the FCA Study;
- (d) the key chronology of events for the draft Sha Tau Kok Outline Zoning Plan No. S/NE-SKT/1 (the OZP) were:
 - (i) on 30.7.2010, the draft Sha Tau Kok DPA Plan No. DPA/NE-STKL/1 (the DPA Plan) was exhibited for public

inspection under section 5 of the Town Planning Ordinance (the Ordinance);

- (ii) the Town Planning Board (the Board) considered the representations and comment, and, after further review of the land use proposals by PlanD, published the amendments to the draft DPA Plan in relation to the “Village Type Development” (“V”) zone of Tong To, San Tsuen, Muk Min Tau and Tsiu Hang and Tam Shui Hang and Shan Tsui for public inspection on 16.9.2011;
- (iii) on 21.2.2012, the Chief Executive in Council (CE in C) approved the draft DPA Plan under section 9(1)(a) of the Ordinance;
- (iv) on 26.4.2013, the Board gave preliminary consideration to the draft OZP and agreed that the draft OZP was suitable for submission to the North District Council (NDC) and Sha Tau Kok District Rural Committee (STKDRC) for consultation. NDC and STKDRC were consulted in May 2013 and consultation was also extended to the green/concern groups (including World Wide Fund for Nature Hong Kong (WWF), Kadoorie Farm and Botanic Garden Corporation (KFBG), the Conservancy Association (CA), Designing Hong Kong Limited (DHKL) and Green Power);
- (v) on 28.6.2013, the Board gave further consideration to the draft OZP, together with the comments received from concerned parties;
- (vi) on 19.7.2013, the draft OZP No. S/NE-STK/1 was exhibited for public inspection under section 5 of the Ordinance. During the exhibition period, a total of 15 representations and one comment were received; and
- (vii) on 10.1.2014, the Board decided to consider the representations and comment collectively under two groups;

Planning Scheme Area

- (e) the planning scheme area (the Area) covered about 557 ha of land. It was located approximately 9 km to the north-east of Fanling / Sheung Shui New Town. It was bounded by Sha Tau Kok River in the north, Sha Tau Kok Boundary Control Point in the east, Starling Inlet (Sha Tau Kok Hoi) in the south-east, and Robin's Nest (Hung Fa Leng) in the west.
- (f) there were seven recognised villages within the Area, namely Tong To, Muk Min Tau (including Tsiu Hang), San Tsuen, Tam Shui Hang (including Sheung Tam Shui Hang and Ha Tam Shui Hang) and Shan Tsui;

General Planning Intention

- (g) the general planning intention of the Area was to promote cultural conservation and recreation tourism. The rural character, natural habitats including the undisturbed woodland and lowland river habitats, the unique landscape as well the ecologically important areas and the upland scene of the Area should be conserved.;

Representations and Representers' Proposals

- (h) four representations (R1 to R4) were submitted by green/concern groups. They considered that the current zonings were insufficient to protect the ecologically valuable areas, i.e. lowland streams and fish ponds, whilst the areas zoned "V" were excessive;
- (i) the other 11 representations (R5 to R15) were submitted by local villagers, of which ten objected to and one (R15) supported the "Recreation (1)" ("REC(1)") zone along the coastal area of San Tsuen along Sha Tau Kok Road;

- (j) the main grounds of the representations as summarised in paragraph 2.2 of the Paper were:

Representations submitted by the green/concern groups

Protection of the lowland streams

- (i) KFBG had carried out a detailed biodiversity study in some rural areas which had reinforced earlier findings of the high ecological value of the lowland streams in the former Frontier Closed Area (FCA). The submissions and recommendations on the protection of ecological habitats, however, had not been given due consideration by the Government in the plan-making process (R3);
- (ii) the Authority was not paying sufficient attention to the obligations of the Convention on Biological Diversity (the Convention) which required the protection of important habitats especially ecosystems in pristine condition using a holistic approach. The obligations of the Convention should be reflected in the zonings of the OZP (R3);
- (iii) in the four letters/joint letters attached to R3's representation, the green/concern groups mainly suggested, among others, protection measures for habitats of high ecological value; and pointed out the adverse impact of inappropriate zoning on local conservation and landscape heritage (R3)

Stream courses running through the Sha Tau Kok area

- (iv) the three stream courses running through the Sha Tau Kok (STK) area were considered as 'rare' in Hong Kong under the FCA Study and some of them (i.e. Sheung / Ha Tam Shui Hang) had moderate to high ecological value where fish and odonate species of conservation importance were recorded. The "V" zoning of stream sections passing through the existing villages could not reflect the ecological importance of the streams. Stream diversion would be

legitimate under the “V” zone (R1 and R2);

- (v) village development currently not served by public sewer along these streams would generate surface runoff and untreated sewage would degrade the water quality of the streams and Starling Inlet, an important foraging site for egrets and herons. The Fish Culture Zone in Starling Inlet which was within the Mirs Bay Water Control Zone would also be affected (R2). Conservation zonings were more appropriate to safeguard the water quality and ecology of the streams and Starling Inlet (R2) and stop eco-vandalism like land filling/site formation works (R3);

“REC(1)” zone along Sha Tau Kok Road

- (vi) the “REC(1)” zone would encourage uncontrolled land-filling activities posing potential ecological impacts to the ponds and adjacent mangroves as well as adverse landscape impact to the coastal area of STK (R1);
- (vii) the two fish ponds to the south of Sha Tau Kok Road were ecologically important because of the presence of 15 bird species and were potential habitat for overwintering bird and ardeids, e.g. Chinese Pond Heron, which was of regionally concern. Rezoning the fish ponds from “Agriculture” (“AGR”) to “REC(1)” would facilitate recreational activities such as barbecue and camping which would disturb birds roosting at the ponds and nearby area (R2);

Designation of “V” zones

- (viii) survey should be conducted to ensure that species or habitats of conservation interest and agricultural land with good quality which might exist in the “V” zones could receive better protection by conservation zonings (R1);
- (ix) the demand of Small Houses was infinite and should be contained

within existing village 'environs' ('VE') or "V" zone. Designating new "V" zone was contradictory to this containment policy (R4);

- (x) the former FCA had high landscape and ecological values and all developments within the area should meet the highest landscape, streetscape and environmental standards and must be subject to sustainable infrastructure layout plans and guidelines. However, the lack of village layout and infrastructure support within the "V" zone might lead to environmental deterioration (R4);

Representations submitted by the villagers of San Tsuen

- (xi) the "REC(1)" zone used to be the village extension area for San Tsuen and should be zoned as "V" in order not to affect the development rights of the villagers. The "REC(1)" zone would carve up the village into two portions and villagers were not consulted on the proposed zoning (R5); and
- (xii) the traditional rural environment of the area should be preserved. Recreational development such as barbecue sites, holiday camp and camp site would bring along adverse impacts, pollute the environment and bring about nuisance to the villagers (R6 to R14);
- (k) the representers' proposals as summarised in paragraph 2.3 of the Paper were:

Stream courses running through the STK area

- (i) conservation zonings, such as "Green Belt" ("GB") or "AGR" should be designated for the three streams and their riparian areas (R2);

"REC(1)" zone along Sha Tau Kok Road

- (ii) the two fish ponds and the surroundings should be zoned as

“Conservation Area” (“CA”) (R2);

(iii) the “REC(1)” zone should be rezoned to “V” (R5); and

(iv) the “REC(1)” zone should be withdrawn (R6 to R14).

Responses to Grounds of Representations and Representers’ Proposals

- (1) responses to the representers’ views and their proposals as summarised in paragraphs 5.13 and 5.14 of the Paper were:

Representations submitted by the green/concern groups

Protection of the lowland streams

- (i) extensive consultations with green/concern groups, local villagers and stakeholders had been carried out in the course of preparing the draft DPA Plan and draft OZP. To take forward the recommendations of the FCA Study, a draft DPA Plan and subsequently a draft OZP had been prepared for the STK area in 2010 and 2013. In the course of the preparation of the statutory town plan, the green/concern groups’ views on the need to designate conservation zonings for the lowland streams and their riparian areas in the STK area to reflect the ecological importance as well as the local villagers/stakeholders’ views on the need for Small House development and the need for some form of development after the opening up of the STK area had been fully heard and deliberated by the Board (R3);
- (ii) the ecologically sensitive areas in STK (e.g. ‘fung-shui’ woodland) proposed in the FCA Study had already been covered by appropriate conservation zonings including “GB” and “CA” under the current OZP. The OZP generally followed the recommendations of the

FCA Study which had taken into account the biodiversity study conducted by KFBG in 2004. In the course of preparing the OZP, all major stakeholders including the green groups, local villagers and Rural Committees had been consulted and their views had been taken into account in drawing up the OZP. The OZP had struck a balance between conservation needs and the development needs of the villagers (R3);

Stream courses running through the STK area

- (iii) the land use zonings covering the upper and lower sections of these streams had been proposed after taking into account the recommendations of the FCA Study and the existing conditions of the streams/riparian zones. According to the FCA Study, the stream near Tong To was of moderate ecological value; the upper section of the stream near Muk Min Tau and San Tsuen was of moderate ecological value while its lower-middle course was of low ecological value; and the stream near Sheung/Ha Tam Shui Hang was of moderate to high ecological value;

- (iv) in considering the appropriate zoning for the streams and the riparian area, the Board had taken into account all relevant factors, including the existing conditions, surrounding land uses and the planning intention for the area, and the public views as well as professional advice from the Director of Agriculture, Fisheries and Conservation (DAFC). It should also be noted that the conservation zonings including “CA”, “GB” and “AGR”, for the riparian area of the streams, as proposed by the green/concern groups, had been fully deliberated in the Board’s meetings on 26.4.2013 and 28.6.2013. The upper sections of the streams were covered by conservation zonings while the lower sections, which had village settlements nearby, were mainly zoned “V”. There had been no significant change in the planning circumstances (R1 and R2);

- (v) “GB” and “CA” zoning covering the upper section of the streams were conservation zonings with a general presumption against development within the zones, and any diversion of streams, filling of land/pond or excavation of land should not be undertaken without the permission from the Board. Within the “AGR” zone, any diversion of streams or filling of land/pond would require planning permission from the Board while within the “V” and “REC(1)” zones, any diversion of streams or filling of pond also required planning permission from the Board. It was considered that the streams were properly protected by the conservation zonings. Any unauthorised development within the Area would be subject to enforcement by the Planning Authority in accordance with the provisions of the Ordinance (R1);
- (vi) there were existing administrative mechanisms to ensure that any potential adverse impact on the natural streams would be properly addressed (R2);

“REC(1)” zone along Sha Tau Kok Road

- (vii) since the opening up of the STK area in February 2012, there had been a marked increase in local tours and visitors which had generated high demand for tourism supporting facilities. As such, an area to the south of Sha Tau Kok Road, including the two fish ponds, had been zoned “REC(1)” with ‘Place of Recreation, Sports or Culture’ use placed under ‘Column 2’ so that the Board could retain statutory planning control on major development;
- (viii) the fish ponds and surrounding area to the south of Sha Tau Kok Road had not been identified as of high ecological/conservation significance under the FCA Study. It mainly covered two fish ponds and fallow agricultural land with some village houses. DAFC considered that the “REC(1)” zone with the planning intention for low-intensity recreational uses appropriate (R2);

- (ix) the “REC(1)” zone enjoyed good accessibility from Sha Tau Kok Road and Sha Tau Kok Town to the north. The area to the immediate south and west was zoned “REC” and occupied by the existing Sha Tau Kok Farm. Given its accessible location and the presence of existing recreational facilities in the vicinity, the area had good potential for development of agri-tourism and low-intensity recreational use, such as hobby farm and leisure fishing and ancillary facilities. Under the Notes for “REC(1)” zone, any diversion of streams or filling of ponds required planning permission from the Board thus providing appropriate protection to the fish ponds and the adjacent mangroves. ‘Place of Recreation, Sports or Culture’ use was placed under Column 2 to ensure that the Board could retain statutory planning control on development of major recreational facilities which might have potential impact on the natural environment (R1);

Designation of “V” zones

- (x) the boundaries of the “V” zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as the ‘VE’, Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics. DAFC considered that further investigation on the species or habitats within the “V” zone was not necessary (R1);
- (xi) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the seven recognised villages within the STK area (R4);
- (xii) the sewage disposal and site formation works of Small House would be considered by concerned departments during the processing of the Small House application by Lands Department (LandsD). The arrangement of sewage disposal and carrying out of site formation

works should comply with the requirements from the relevant government departments (R4);

- (xiii) PlanD would continue to monitor the situation and update the existing village layout plans (VLPs), if required. The preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD (R4);

Representations submitted by the Villagers of San Tsuen

- (xiv) the District Lands Officer/North (DLO/N), LandsD had advised that the 'VE' of San Tsuen did not cover the area south of Sha Tau Kok Road, which were zoned "REC" and "REC(1)" on the draft OZP. The size of "V" zone for San Tsuen was already equal to that of the 'VE', and thus the proposal to rezone the coastal area of San Tsuen to "V" was not justified (R5); and

- (xv) regarding the concerns on the environmental impact brought about by the recreational development, the area was zoned "REC(1)" with 'Place of Recreation, Sports or Culture' use placed under Column 2 to ensure that the Board could retain statutory planning control on the development of major recreational facilities which might have potential impact on the natural environment. Besides, any diversion of streams or filling of ponds would also require planning permission from the Board (R6 to R14);

Comment on Representations and Responses to Comment

- (m) C1 commented that the Area was close to the study area of the Preliminary Feasibility Study on Developing the New Territories North (the NT North Study). If the draft OZP was approved, it would have pre-emptive effect on the forthcoming NT North Study;

- (n) the comment was not related to the draft OZP and the 15 representations received. The NT North Study was a strategic planning study to examine the development opportunities and constraints of NT North and had no direct relationship with or implications on the draft OZP (C1); and

PlanD's Views

- (o) based on the planning considerations and assessment in paragraph 5 of the Paper, PlanD's views were:
 - (i) the representation R15 in support of the "REC(1) zone was noted;
 - (ii) the representations R1 to R14 were not supported; and
 - (iii) the representations R1 to R14 should not be upheld and the Plan should not be amended to meet the representations.

135. The Chairman then invited the representers' representatives to elaborate on their representations.

R2 – WWF

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

- (a) the three stream courses running through the Area, i.e. Ha Tam Shui Hang, Muk Min Tau and Tong To Streams, were considered to have moderate to high ecological value according to the FCA Study. The designation of these streams and their riparian areas as "V" zone could not provide sufficient protection for these streams which were of high ecological significance;
- (b) village development currently not served by public sewer along these

streams would generate surface runoff and untreated sewage which would pollute the streams and degrade the water quality of Starling Inlet. Moreover, the existing mangrove and mud flat habitat in the area would be adversely affected. The cumulative off-site impacts of the village developments on Starling Inlet and its surrounding mangrove and mud flats should be carefully considered in planning for the Area; and

- (c) conservation zonings such as “GB” and “CA” should be designated for the three streams and their riparian areas in order to safeguard the water quality and ecology of the streams and Starling Inlet.

R3 – KFBG

137. With the aid of a Powerpoint presentation, Mr Tony Nip, made the following main points:

- (a) the findings of KFBG’s biodiversity study and the recommendations of the FCA Study were not duly taken into account by PlanD in preparing the draft OZP;
- (b) Ha Tam Shui Hang, identified to be of moderate to high ecological value under the FCA Study, was not included in the “V” or “REC” zone of an old draft DPA plan for the STK area. The stream was subsequently designated as “AGR” zone on one of the draft plans prepared by PlanD in 2012. He was disappointed to note that the stream had now been included as part of the “V” zone on the current draft OZP;
- (c) the existing mangrove and mud flat area along the coast near Tong To was zoned “REC” on the draft OZP whereas the coastal area in Luk Keng, which had very few mangrove or mud flat, was given a conservation zoning of “Coastal Protection Area” on the approved Luk Keng and Wo Hang OZP No. S/NE-LK/11;

[Dr C.P. Lau left the meeting and Ms Julia M.K. Lau returned to join the meeting at this point.]

- (d) the extensive mangrove and mud flat in the STK area was an important habitat for a dragonfly species identified to be of conservation importance by the International Union for Conservation of Nature (IUCN);
- (e) the current “REC” zoning could not provide sufficient protection for the existing mangrove from human disturbance since land filling or excavation of land were not unauthorised works within the REC” zone. These uncontrolled works had caused adverse ecological impact on the existing mangrove within the “REC” zoning;
- (f) the “REC” zoning was also not favoured by the local villagers who wanted to have more “V” land for Small House development;
- (g) a natural stream near Tong To was filled up and trees along the stream were felled after the designation of that area as “REC” zone on the draft DPA Plan in 2012;
- (h) although the lower section of Ha Tam Shui Hang Stream was channelised, he believed that the diversity of water plants at the bottom of the stream, which remained in a natural state, would be very high;
- (i) a number of photos were shown to demonstrate the irreversible damages to the existing mangrove, freshwater marsh and natural stream habitats caused by various uncontrolled human activities in the “REC” and “V” zones of the Area;
- (j) the principles of the Convention which required the protection of important habitats were not followed, as reflected in the inappropriate zonings of the OZP; and
- (k) the draft OZP had not struck a proper balance between conservation and

economic development.

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

139. In response to a Member's question on the rationale for designating different sections of a stream with different zonings, Mr C.K. Soh said that the FCA Study had assessed the ecological value of different streams and recommended different zonings for different streams. Referring to the recommended development plan of the STK area under the FCA Study, the streams were recommended an "AGR" zoning. In preparing the draft OZP, the zonings for the upper and lower sections of the streams were proposed taking into account the recommendations of the FCA Study and the existing conditions of the streams and their riparian areas. For the stream in Ha Tam Shui Hang, its upper section fell mainly within "AGR" and "GB" zones to reflect the existing fallow agricultural land and natural state of the hillslopes whereas the lower-middle section of the stream, which was channelised and surrounded by village developments, was zoned "V" having regarded the existing condition.

140. Mr Tony Nip referred Members to Plan H-3 of the Paper which showed that only a small portion of the upper section of Ha Tam Shui Hang Stream was zoned "GB" while a major portion of the upper section of the stream was zoned "AGR" on the draft OZP. Given that the FCA Study had assessed the whole Ha Tam Shui Hang Stream as having moderate to high ecological value and recommended an "AGR" zoning for the stream, there was no strong justification to rezone the lower section of the stream from "AGR" to "V" zone. During the course of the FCA Study, no village development was found in the vicinity of the stream. Construction of Small Houses near the stream had commenced after the publication of the draft DPA Plan. He remarked that during the preparation of a new plan, the designation of a zoning for an area should reflect the planning intention for the area instead of the existing land use of the area and its surrounding area.

141. In response to the same Member's question, Mr Tony Nip said that the area along the lower section of Ha Tam Shui Hang Stream had already been channelised at the time when the FCA Study was conducted.

142. This Member continued and asked whether different sections of Ha Tang Shui Hang Stream had different ecological values. Mr C.K. Soh advised that Ha Tam Shui Hang Stream as a whole was of moderate to high ecological value according to the FCA Study. While the recommendations of the FCA Study was generally followed in preparing the OZP, in considering the appropriate zoning for the stream and its riparian area, all relevant factors including the existing condition, surrounding land uses, the planning intention for the area, the public views as well as advice from concerned government departments had been taken into account. Hence, the zoning for certain areas might be changed during the preparation of the draft OZP.

143. The same Member enquired whether “AGR” zone would provide better protection for the streams than “V” zone, and whether public sewerage system was provided in the “V” zones of the three streams.

144. Mr C.K. Soh replied that diversion of streams within both “AGR” and “V” zones would require planning permission from the Board, and the level of protection for the stream course would be the same under both zonings. As regards the impact of future developments within the “AGR” and “V” zones on the water quality of the stream, he said that agricultural activities as permitted within “AGR” zone were not expected to have adverse ecological impact on the stream. Moreover, as Small House developments along the stream were required to meet the requirements of concerned government departments during the processing of Small House applications by LandsD, the potential impact of Small House developments on the water quality of the stream should not be significant. He continued to say that at present the area was not served by public sewerage system and septic tanks were used in Small House developments.

145. Another Member enquired about the area and location of the original agricultural land near the “V” zones and the existing land use of the “REC(1)” zone along the coast.

146. Mr C.K. Soh replied that the “REC(1)” zone was originally zoned “AGR” on the DPA Plan. The area was mainly occupied by two fish ponds, fallow agricultural land and a few residential structures. He displayed a habitat map of the STK Area under the FCA

Study showing the geographical distribution of land uses including agricultural land within the Area. However, there was no such information at hand about the total area of agricultural land in the vicinity of “V” zones.

147. In response to the same Member’s question on the existing land use of the riparian areas of the streams, Mr C.K. Soh said that the riparian areas were mainly occupied by fallow agricultural land at the time when the FCA Study was conducted.

148. As the representers’ representatives of Group 1 had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and inform the representers of the Board’s decision in due course. The Chairman thanked the representers’ representatives for attending the hearing. They all left the meeting at this point.

Group 2 : R5 to R15 and C1

149. The Chairman said that reasonable notice had been given to the representers and commenter of Group 2 to invite them to attend the meeting. Members agreed to proceed with the hearing in Group 2 in the absence of the other representers and commenter who had indicated that they would not attend or made no reply to the invitation to the hearing.

150. The following representers and their representatives were invited to the meeting at this point:

R5 – Lam Tin Sang (Indigenous Inhabitant Representative of San Tsuen)

Calvin Hue (Resident Representative of San Tsuen)

Mr Calvin Hue]	Representer
Mr Yau Tim Fook]	Representer’s representatives
Mr Yau Kam Ming]	

R10 – Lam Po Fan

Ms Lam Po Fan] Representer

151. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representers and their representatives to elaborate on their representations.

R5 – Lam Tin Sang (Indigenous Inhabitant Representative of San Tsuen)

Yau Tin Yan (Resident Representative of San Tsuen)

152. Mr Calvin Hue made the following main points:

- (a) he was an indigenous villager and a Resident Representative of San Tsuen;
- (b) the area to the south of Sha Tau Kok Road currently zoned “REC(1)” on the draft OZP was an integral part of San Tsuen and was named Ha San Tsuen by the villagers. The villagers began to build their houses at Ha San Tsuen more than 100 years ago. Some photographs and plans obtained from LandsD revealed that houses already existed in the Ha San Tsuen area since 1924;
- (c) in 1992, when LandsD drew up the ‘VE’ for San Tsuen, the Ha San Tsuen area was excised from San Tsuen and was given a new name of Nga Yiu Tau Village by LandsD; and
- (d) he strongly objected to the designation of the Ha San Tsuen area as “REC(1)” and requested that the “REC(1)” zone be deleted and the area be reverted for village house development of San Tsuen.

153. Mr Yau Tim Fook made the following main points:

- (a) he was an indigenous villager of San Tsuen;

- (b) approval had been granted by LandsD in 1983 for him to develop a Small House in the area south of Sha Tau Kok Road. However, subsequent Small House applications in the same area by others were rejected by LandsD on the grounds that the sites fell outside the 'VE' of San Tsuen; and
- (c) the Board was urged to rezone the area south of Sha Tau Kok Road from "REC(1)" to other appropriate zones for Small House developments.

154. Mr Yau Kam Ming made the following main points:

- (a) he was an indigenous villager of San Tsuen and his father was the village representative of Ha San Tsuen; and
- (b) his Small House application at Ha San Tsuen was rejected by LandsD in 1993 on the grounds that the site fell outside the 'VE' of San Tsuen. Noting that the area was part of the San Tsuen boundary in the past, he could not understand why his Small House application was rejected.

R10 – Lam Po Fan

155. Ms Lam Po Fan made the following main points:

- (a) she was an indigenous villager of San Tsuen;
- (b) according to her knowledge, the area currently zoned "REC(1)" on the draft OZP had been part of the San Tsuen area for more than 200 years;
- (c) concerned departments including Home Affairs Department (HAD) and LandsD did not explain why the area to the south of Sha Tau Kok Road, which was the Ha San Tsuen area in the past, would become another village named Nga Yiu Tau;

- (d) the Small House application by Mr Yau Tim Fook at the Ha San Tsuen area was approved by LandsD in 1983. Subsequently, a similar Small House application submitted by Mr Yau Kam Ming in 1993, also at the Ha San Tsuen area, was rejected by LandsD four years later;

[Ms Anita W.T. Ma arrived to join the meeting at this point.]

- (e) the rejection reason that the site fell outside the 'VE' of San Tsuen was not convincing in that the application should have been rejected by LandsD at the outset if the site was not eligible for Small House development by San Tsuen villagers. However, the Small House application had been processed by LandsD for four years and during that period, Mr Yau Kam Ming was requested by concerned departments to carry out some works incidental to the Small House development such as relocation of electricity mast and felling of trees;
- (f) it was ridiculous that LandsD had clarified that the Small House application by Mr Yau Tim Fook was approved by mistake;
- (g) since the drawing up of the 'VE' for San Tsuen in 1992, the village representatives of San Tsuen had kept on requesting the rectification of the 'VE' boundary for San Tsuen. However, such requests were ignored by concerned departments including HAD and LandsD;
- (h) the designation of the area south of Sha Tau Kok Road as "REC(1)" zone was strongly objected to as the area was part of the San Tsuen area which should be used for Small House development by local villagers; and
- (i) the "REC(1)" zoning of the area should be withdrawn and the area should be excluded from any planning by the Government such that the existing rural environment could be preserved. Recreational activities such as camping ground and barbecue spots would destroy the tranquil environment and cause nuisance to the local villagers.

156. Ms Lam Po Fan asked if the Board could advise her the means to rectify the 'VE' boundary of San Tsuen. Moreover, she wondered whether her views expressed in the meeting would be taken into account in the consideration of the representations.

157. The Chairman said that the drawing up of 'VE' boundary for indigenous village was outside the ambit of the Board. The representation hearing was part of the statutory plan-making process which provided an effective channel for the representers to elaborate on their grounds of representation. All the written submissions as well as the oral presentations made by the representers in the meeting would be taken into account.

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

159. The Chairman asked whether agricultural use was permitted within the "REC" zone. In response, Mr C.K. Soh said that 'Agricultural Use' was a Column 1 use which was always permitted within the "REC" zone. Moreover, the user schedule of the "REC" zoning could provide more flexibility in the utilisation of land by allowing recreational uses.

160. A Member asked R10 to clarify the extent of the 'VE' for San Tsuen and whether the 'VE' had included the coastal area.

161. Ms Lam Po Fan said that the existing 'VE' of San Tsuen did not cover the area to the south of Sha Tau Kok Road though the coastal area was part of San Tsuen and a few sites along the waterfront were owned by her family.

162. Another Member said that according to the plan showing the existing land uses of STK (Plan H-2 of the Paper), 'Nga Yiu Tau' was not part of the rural settlement and it was not shown on Plan H-2a of the Paper which indicated the existing "V" and 'VE' of the recognised villages. This Member asked DPO/STN to confirm whether 'Nga Yiu Tau' was a recognised village and whether the area to the south of Sha Tau Kok Road fell within the 'VE' boundary of San Tsuen as claimed by the representers.

163. Mr C.K. Soh said that the existing recognised villages in the Area (viz. Shan

Tsui, Tong To, Sheung/Ha Tam Shui Hang, San Tsuen and Muk Min Tau (including Tsiu Hang)) did not include Nga Yiu Tau. Each of these recognised villages had its own 'VE' and their respective boundaries were shown on Plan H-2a of the Paper. DLO/N, LandsD advised that the 'VE' of San Tsuen did not cover the area south of Sha Tau Kok Road currently zoned "REC(1)" on the draft OZP.

164. Mr Yau Kam Ming said that he could not understand why the area south of Sha Tau Kok Road did not belong to San Tsuen but Nga Yiu Tau Village, especially when his father and he himself were born in that area.

165. The Chairman said that as advised by DPO/STN, the information on the 'VE' boundary of San Tsuen was provided by DLO/N, LandsD.

166. Mr Yau Tim Fook displayed a District Demarcation Plan dated 1905 to show that there was once a village known as 'Nga Yiu Tau' which was located inland, distant from the sea. The village had been abandoned for decades upon the relocation of the villagers to other parts of the territory. He could not understand why LandsD would designate the coastal area south of San Tsuen as Nga Yiu Tau Village.

167. Ms Lam Po Fan supplemented that she was told by her grandfather that Nga Yiu Tau Village at the location mentioned by Mr Yau Tim Fook had already disappeared before 1895. Nowadays, 'Nga Yiu Tau' as shown on the maps was the name of a place instead of a village. She reiterated that the area to the south of Sha Tau Kok Road was historically part of the San Tsuen area and it was unreasonable to designate this area as Nga Yiu Tau village. The mistake made by concerned departments in drawing up the 'VE' boundary of San Tsuen should be rectified. Recently, the local villagers realised that one of the sewerage improvement projects for the STK area currently implemented by the Government was named 'sewerage improvement works at Nga Yiu Tau, STK'. This had caused more confusion to the villagers as the specific location of Nga Yiu Tau Village was not known.

168. In response to the same Member's question on the existing land use of a small area along the coast which was annotated 'development area' on Plan H-2 of the Paper, Mr C.K. Soh said that the area was occupied by a few village houses.

169. As the representers and the representer's representatives of Group 2 had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and inform the representers of the Board's decision in due course. The Chairman thanked the representers and their representatives, and the Government representatives for attending the hearing. They all left the meeting at this point.

Deliberation

170. The Chairman invited Members to consider the representations and comment, taking into consideration all the written submission and the oral presentation and materials presented at the meeting.

171. Members noted the following responses to the grounds of representations as suggested by PlanD:

- (a) extensive consultations with green/concern groups, local villagers and stakeholders had been carried out in preparing the statutory plans. The divergent views raised by the green/concern groups, local villagers and stakeholders had been fully heard and deliberated by the Board;
- (b) the OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBG. The OZP had struck a balance between conservation needs and the development needs of the villagers;
- (c) in considering the appropriate zoning for the streams and their riparian areas, all relevant factors, including the recommendations of the FCA Study, the existing conditions, surrounding land uses, planning intention for the area, and the public and concerned government departments' views had been taken into account;

- (d) the area zoned “REC(1)” had good potential for development of agri-tourism and low-intensity recreational use given its accessible location. Under the Notes for “REC(1)” zone, any diversion of streams or filling of ponds required planning permission from the Board, thus providing appropriate protection to the fish ponds and the adjacent mangroves. ‘Place of Recreation, Sports or Culture’ use was placed under Column 2 to ensure that the Board could retain statutory planning control on development of major recreational facilities;
- (e) ‘Agricultural Use’ was always permitted in the “REC(1)” zoning. Moreover, the user schedule of “REC(1)” zone would provide more flexibility in the utilisation of land by allowing the development of some recreational facilities;
- (f) the fish ponds and surrounding area to the south of Sha Tau Kok Road had not been identified as of high ecological/conservation significance under the FCA Study;
- (g) there was a need to designate suitable “V” zones within the Area to meet the Small House demand of indigenous villagers. The boundaries of “V” zones were carefully drawn up taking into account the recommendations of the FCA Study and various other factors such as the ‘VE’, Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics;
- (h) according to DLO/N, the ‘VE’ boundary of San Tsuen did not cover the area to the south of Sha Tau Kok Road. Moreover, as the size of “V” zone for San Tsuen was already equivalent to that of the ‘VE’, the proposal to rezone the coastal area from “REC(1)” to “V” for Small House developments of San Tsuen was not justified;
- (i) the arrangement of sewage disposal and carrying out of site formation works for Small House developments should comply with the

requirements from the relevant government departments; and

- (j) the preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD.

[Mr Stanley Y.F. Wong and Mr Timothy K.W. Ma returned to join the meeting at this point.]

172. A Member considered that it was not necessary to propose any amendment to the “V” zones, the area of which should be sufficient to meet the outstanding and future Small House demand for the recognised villages. This Member, however, was concerned about the effectiveness of the “REC(1)” zone in protecting the beautiful coastal area noting that some recreational facilities would be permitted as of right under this zone.

173. The Secretary explained that the planning intention of the “REC(1)” zone was primarily intended for low-density recreational developments to promote agri-tourism and eco-tourism. Uses such as ‘barbecue spot’, ‘picnic area’ operated by the Government were always permitted while major recreational facilities and uses in support of the recreational developments would require planning permission from the Board. ‘Place of Recreation, Sports or Culture’ use was placed under Column 2 so that the Board could retain statutory planning control on major development which might have potential impact on the natural environment.

174. In view of the above, Members noted representation R15’s support of the “REC(1)” zone of the OZP and did not support representations R1 to R14.

175. Members then went through the reasons for not upholding representations R1 to R14 as detailed in paragraph 7.1 of the Paper and considered that the reasons were appropriate.

Group 1 – Representations No. R1 to R4

176. After further deliberation, Members decided not to uphold representations R1 to

R4 for the following reasons:

- “(a) extensive consultations have been carried out with the green/concern groups, local villagers and stakeholders in the course of preparation of the DPA Plan and OZP. The divergent views have been fully deliberated by the Board. Appropriate zonings have been designated to those ecologically important areas requiring protection while striking a proper balance between conservation and development needs (R3);
- (b) the OZP prepared generally follows the recommendations of the FCA Study which has taken into account the biodiversity study conducted by KFBG in 2004. The importance of biological diversity has been reflected in the land use zonings of the OZP (R3);
- (c) the three streams near Tong To, Muk Min Tau and San Tsuen as well as Sheung / Ha Tam Shui Hang flowing through Sha Tau Kok area was not designated as a SSSI or identified as an Ecologically Important Stream by the Agriculture, Fisheries and Conservation Department. The designated zoning has already taken into account the recommendation of the FCA Study and the existing conditions of the streams and their riparian zones (R1 to R3);
- (d) regarding the potential impacts of village developments on existing stream courses in the area, there are existing administrative mechanisms to ensure that any potential adverse impacts on the natural streams would be properly addressed (R2);
- (e) according to the Notes of the Sha Tau Kok OZP No. S/NE-STK/1, any diversion of streams or filling of ponds to effect any permitted uses under the “V” zone would require planning permission from the Board (R1);
- (f) the area zoned “REC(1)” has not been identified as having high ecological/conservation significance under the FCA Study. The zoning is

appropriate for promoting agri-tourism and low-intensity recreational uses whilst major recreation development which may have potential impact on the natural environment and any diversion of stream and filling of pond would be subject to control under the planning permission system (R1 and R2)

- (g) the boundaries of the “V” zones are defined taking into account the recommendations of the FCA Study and various factors such as local topography, settlement patterns, ecologically important area and other site specific characteristics. Further investigation on the species or habitats within the “V” zone is not necessary (R1);
- (h) there is a need to designate suitable “V” zones within the planning scheme area to meet the Small House demand of indigenous villagers in Sha Tau Kok area (R4);
- (i) the sewage disposal and site formation works of Small House will be considered by concerned government departments during the processing of the Small House application by LandsD and have to comply with the requirements of relevant departments (R4); and
- (j) the preparation of VLPs for villages covered by existing OZPs will depend on a number of factors such as implementation prospect of the VLPs and manpower and priority of work within PlanD (R4).”

Group 2 – Representations No. R5 to R15

177. After further deliberation, Members noted the support of representation R15.

178. The Board also decided not to uphold representations R5 to R14 for the following reasons:

- “(a) the ‘VE’ of San Tsuen does not cover the areas south of Sha Tau Kok

Road, which are zoned “REC” and “REC(1)” on the draft Sha Ta Kok OZP No. S/NE-STK/1. As the size of “V” zone for San Tsuen and Muk Min Tau (including Tsiu Hang) is nearly equivalent to the size of ‘VE’ of the same villages, it is not justified to rezone additional area to “V” on the OZP (R5); and

- (b) under the “REC(1)” zone, ‘Place of Recreation, Sports or Culture’ use is placed under Column 2 so that the Board could retain statutory planning control on major development which may have potential impact on the natural environment (R6 to R14).”

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

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comment to the Draft Ta Kwu Ling North Outline Zoning Plan No. S/NE-TKLN/1
(TPB Paper No. 9523)

[The hearing was conducted in Cantonese.]

179. The Chairman said that reasonable notice had been given to the representers and commenter to invite them to attend the meeting. Members agreed to proceed with the hearing in the absence of the other representers and commenter who had indicated that they would not attend or made no reply to the invitation to the hearing.

180. The following Government representatives, representers and their representatives were invited to the meeting at this point:

- | | | |
|--------------------|---|-------------------------------------------------------------------------------------------------|
| Mr C.K.Soh | - | District Planning Officer/Shan Tin, Tai Po and North, Planning Department (DPO/STN, PlanD) |
| Mr Wallace Tang | - | Senior Town Planner/Shan Tin, Tai Po and North, (STP/STN), PlanD |
| Ms Cindy Wong | - | Town Planner/Shan Tin, Tai Po and North, (TP/STN), PlanD |
| Mr Cheung Kwok Wai | - | Senior Nature Conservation Officer, (North), Agriculture, Fisheries and Conservation Department |

R2 – World Wide Fund for Nature Hong Kong

- | | | |
|----------------|---|-------------------------------|
| Mr Andrew Chan |] | Representer's representatives |
| Mr Tobi Lau |] | |

R3 – Kadoorie Farm and Botanic Garden Corporation

- | | | |
|-------------------|---|-------------------------------|
| Ms Woo Ming Chuan |] | |
| Dr Chiu Sein Tuck |] | Representer's representatives |
| Mr Tony Nip |] | |

181. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the background to the representations.

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

Background

- (a) in 2006, the Security Bureau conducted a review of the coverage of the then Closed Area and concluded that the objective of maintaining boundary security could still be achieved even if the existing Closed Area was reduced;

- (b) a Consultancy Study entitled “Study on Land Use Planning for the Closed Area - Feasibility Study” (FCA Study) was commenced in 2007 and completed in 2010 to formulate a land use planning framework to guide the conservation and development of the Closed Area, based on the principle of sustainable development. The land use framework integrated land use proposals that enhance conservation, while promoting appropriate development to enhanced the livelihood of local residents and prosperity of local economy;
- (c) five draft Development Permission Area (DPA) Plans for the Closed Area were prepared to take forward the recommendations of the FCA Study;
- (d) the key chronology of events for the draft Ta Kwu Ling North Outline Zoning Plan No. S/NE/TKLN/1 (the OZP) were:
 - (i) on 30.7.2010, the draft Ta Kwu Ling North DPA Plan No. DPA/NE-TKLN/1 (the DPA Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance);
 - (ii) the Town Planning Board (the Board) considered the representations and comment, and, after further review of the land use proposals by PlanD, published the amendments to the draft DPA Plan in relation to the “Village Type Development” (“V”) zone of Tong Fong, Tsung Yuen Ha and Ha Heung Yuen for public inspection on 28.10.2011;
 - (iii) on 8.5.2012, the Chief Executive in Council (CE in C) approved the draft DPA Plan under section 9(1)(a) of the Ordinance;
 - (iv) on 26.4.2013, the Board gave preliminary consideration to the draft OZP and agreed the draft OZP was suitable for submission to the North District Council (NDC) and Ta Kwu Ling District Rural Committee (TKLDRC) for consultation. NDC and TKLDRC were

consulted in May 2013 and consultation was also extended to the green/concern groups (including World Wide Fund for Nature Hong Kong (WWF), Kadoorie Farm and Botanic Garden Corporation (KFBG), the Conservancy Association (CA), Designing Hong Kong Limited (DHKL) and Green Power);

- (v) on 28.6.2013, the Board gave further consideration to the draft OZP, together with the comments received from concerned parties; and
- (vi) on 19.7.2013, the draft OZP No. S/NE-TKLN/1 was exhibited for public inspection under section 5 of the Ordinance. During the exhibition period, a total of four representations and one comment were received;

Planning Scheme Area

- (e) the planning scheme area (the Area) covered a total area of about 431 hectares. It was bounded by Sham Chun River in the north, Lin Ma Hang Road in the northeast, Wong Mau Hang Shan in the east, Tung Fung Au and Tung Lo Hang in the south, and Ping Che Road in the west. The North East New Territories Landfill was located immediately to the southeast of the planning scheme area at Wo Keng Shan;
- (f) the extensive lowlands mainly comprised arable land intermixed with livestock farms and clusters of settlements, woodlands and other vegetated habitats. The surroundings were predominantly agricultural land spotted with rural settlements;
- (g) there were six recognised villages within the area, namely Chuk Yuen, Heung Yuen Wai, Ha Heung Yuen, Tsung Yuen Ha, Kan Tau Wai and Tong Fong;

General Planning Intention

- (h) the general planning intention of the Area was to promote cultural conservation, recreation tourism and provide suitable facilities to meet the territorial need and cross-boundary infrastructure. It was also the planning intention to protect the natural setting and cultural integrity of the planning scheme area and to promote sustainable agricultural activities;

Representations and Representers' Proposals

- (i) the representations (R1 to R4) were submitted by green/concern groups. They considered that the streams in TKLN area were not sufficiently protected, in particular Heung Yuen Wai Stream (HYW Stream) and its riparian area, while the areas zoned "V" were considered excessive;
- (j) the main grounds of the representations as summarised in paragraph 2.2 of the Paper were:

Protection of the lowland streams

- (i) KFBG had carried out a detailed biodiversity study in some rural areas which had reinforced earlier findings of the high ecological value of the lowland streams in the former Frontier Closed Area (FCA). The submissions and recommendations on the protection of ecological habitats, however, had not been given due consideration by the Government in the plan-making process (R3);
- (ii) the Authority was not paying sufficient attention to the obligations of the Convention on Biological Diversity (the Convention) which required the protection of important habitats especially ecosystems in pristine condition using a holistic approach. The obligations of the Convention should be reflected in the zonings of the OZP (R3);
- (iii) in the four letters/joint letters attached to R3's representation, the green/concern groups mainly suggested, among others, protection measures for habitats of high ecological value; and pointed out the

adverse impact of inappropriate zoning on local conservation and landscape heritage (R3);

HYW Stream

- (iv) the FCA Study recognised that HYW Stream was of high ecological value. The riparian zone to the north of HYW Stream would be disturbed by land-filling and excavation activities which were not restricted under the existing “REC” zone. Also, construction runoff from site formation works at the riparian zone might cause adverse drainage and ecological impacts to the Stream. It was highly concerned that pollutant from HYW Stream would be discharged to Deep Bay affecting its water and ecology (R2);
- (v) the freshwater stream aquatic system and its riparian zones at Heung Yuen Wai which was considered to be of high ecological value in the FCA Study as well as the upper section of Ping Yuen River were now largely covered by non-conservation zonings, such as “REC”, “Agriculture” (“AGR”) and “V” zones (R3);

Designation of “V” zones

- (vi) survey should be conducted to ensure that species or habitats of conservation interest and agricultural land with good quality which might exist in the “V” zones could receive better protection by conservation zonings (R1);
- (vii) the demand of Small Houses was infinite and should be contained within existing village ‘environs’ (‘VE’) or “V” zone. Designating new “V” zone was contradictory to this containment policy (R4);
and
- (viii) the former FCA had high landscape and ecological values and all developments within the area should meet the highest landscape, streetscape and environmental standards and must be subject to

sustainable infrastructure layout plans and guidelines. However, the lack of village layout and infrastructure support within the “V” zone might lead to environmental deterioration (R4);

- (k) R2 and R3 considered that HYW Stream and its riparian area should be rezoned to conservation zoning, e.g. “AGR” or “GB”;

Responses to Grounds of Representations and Representers’ Proposals

- (l) responses to the representers’ views and their proposals as summarised in paragraphs 5.13 of the Paper were:

Protection of the lowland streams

- (i) extensive consultations with green/concern groups, local villagers and stakeholders had been carried out in the course of preparing the draft DPA Plan and draft OZP. Similar views on protection of HYW Stream and its riparian area had been expressed by the green/concern groups and considered by the Board at the preparation stage of the statutory plan as well as hearing of the representations and comments for the draft TKLN DPA Plan in accordance with the provisions of the Ordinance. The divergent views raised by the green/concern groups, local villagers and stakeholders had been fully heard and deliberated by the Board (R3);
- (ii) the ‘fung-shui’ woodland and the closed-canopy shrubland and secondary woodland which were considered ecologically important had already been zoned “CA” and “GB” under the current OZP. The OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBBG in 2004. In the course of preparing the OZP, all major stakeholders including the green groups, local villagers and Rural Committees had been consulted and their views had been taken into account in drawing up the OZP. The OZP had struck a balance

between conservation needs and the development needs of the villagers (R3);

HYW Stream

- (iii) the high ecological value of the undisturbed upper section of HYW Stream was recognised and the area had been zoned “GB” on the DPA Plan and now on the OZP as recommended by the FCA Study. In preparing the OZP, the Board had also agreed to rezone two strips of land adjoining the lower section of the stream from “REC” to “GB” and “AGR” to respect their ecological value as agreed by the Director of Agriculture, Fisheries and Conservation (DAFC). It should be noted that the habitat types along the downstream area, which were covered mostly by fallow agricultural land, seasonally wet grassland and grassland/shrubland were generally of moderate and low to moderate ecological values, and village settlements and more human activities were found. As such, “AGR”, “REC” and “V” zones were proposed for the downstream areas. In considering the appropriate zoning for the stream and its riparian area, the Board had taken account all relevant factors, including the existing conditions, surrounding land uses and the planning intention for the area, and the public views as well as professional advice from DAFC. It should also be noted that the conservation zonings proposed by the green/concerned groups for the riparian area of the streams had been fully deliberated in the Board’s meetings on 26.4.2013 and 28.6.2013. There had been no significant change in planning circumstances (R2 and R3);
- (iv) in view of the limited infrastructure in TKLN area, the “REC” zone in the area could only support low-intensity recreational development, such as horse riding schools, visitor centres, local historical museums, adventure parks, organic farms, hobby-farms, camping grounds and barbeque areas. To address the green groups’ concern on control of any development in the area which might

require diversion of the existing streams in the area, restriction on diversion of streams was already included in the Notes of the “REC” zone. DAFC also considered that the “REC” zone was appropriate. Any unauthorised development within the Area would be subject to enforcement by the Planning Authority in accordance with the provisions of the Ordinance ((R2 and R3);

- (v) according to the FCA Study, the upper section of Ping Yuen River was of moderate ecological value. It was now zoned “REC” on the OZP. As mentioned above, any diversion of streams in “REC” zone required planning permission from the Board and unauthorised development would be subject to subject to enforcement under the Ordinance (R3);

Designation of “V” zones

- (vi) the boundaries of the “V” zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as the ‘VE’, Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics. In this regard, DAFC considered that further investigation on the species or habitats within the “V” zone was not necessary (R1);
- (vii) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the six recognised villages within the TKLN area (R4);
- (viii) the sewage disposal and site formation works of Small House would be considered by concerned departments during the processing of the Small House application by Lands Department (LandsD). The arrangement of sewage disposal and carrying out of site formation works should comply with the requirements from the relevant government departments (R4); and

- (ix) PlanD would continue to monitor the situation and update the existing village layout plans (VLPs), if required. The preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD (R4);

Comment on Representations and Responses to Comment

- (m) C1 commented that the planning scheme area was close to the study area of the Preliminary Feasibility Study on Developing the New Territories North (NT North Study). If the draft OZP was approved, it would have pre-emptive effect on the forthcoming NT North Study;
- (n) the comment was not related to the draft OZP and the four representations received. The NT North Study was a strategic planning study to examine the development opportunities and constraints of the NT North and had no direct relationship with or implications on the draft TKLN OZP (C1); and

PlanD's Views

- (o) based on the planning considerations and assessment in paragraph 5 of the Paper, PlanD's views were:
 - (i) representations R1 to R4 were not supported; and
 - (ii) representations R1 to R4 should not be upheld and the Plan should not be amended to meet the representations.

183. The Chairman then invited the representers' representatives to elaborate on their representations.

R2 – WWF

184. With the aid of a Powerpoint Presentation, Mr Andrew Chan made the following main points:

- (a) HYW Stream was recognised by the FCA Study as of high ecological value as it supported a good diversity of native fishes and was free from human disturbance. The Study further pointed out that any development at the riparian corridor and increased population and visitors to the area would have severe impact on the ecological value of HYW Stream;
- (b) the existing “REC” zoning could not sufficiently protect the ecological value of HYW Stream in that land filling/excavation activities were not prohibited in this zone;
- (c) construction runoff from site formation works at the riparian zone would degrade the water quality and cause adverse ecological impact on HYW Stream as well as its surrounding habitats; and
- (d) given the high ecological importance of HYW Stream, the stream and its riparian area should be designated a conservation zoning such as “GB” and “CA” in order to provide better protection for the stream and its riparian areas.

R3 – KFBG

185. With the aid of a Powerpoint presentation, Mr Tony Nip made the following main points:

HYW Stream

- (a) according to the FCA Study, HYW Stream was considered to be of high ecological value mainly because it was largely natural and also contained species of conservation importance. Some rare or endangered species such as freshwater crab *Somanniathelphusa Zanklon*, paradise fish

Macropodum opercularia, and marsh shrimp *Macrobrachium fukienese* could be found in the stream. The Study even recommended that this network of streams was of sufficient ecological value to be added to the register of Ecologically Important Stream administered by Agricultural, Fisheries and Conservation Department (AFCD);

- (b) HYW Stream and its riparian area should be protected in entirety so as to minimise adverse ecological impact generated from human activities;
- (c) PlanD had stated in the Paper that the undisturbed upper section of HYW Stream was of high ecological value while the lower/middle section of the stream, where village settlements and more human activities were found, were of moderate to low ecological value. However, according to some site photos of different sections of the stream recently taken by him, the whole HYW Stream remained largely undisturbed and still contained a high diversity of water plants. Moreover, its ecological significance in terms of habitat characteristics was comparable to that of Lin Ma Hang Stream. Hence, the ecological value of HYW Stream was high;
- (d) PlanD had stated in paragraphs 7(c) and (d) of the Paper that it was appropriate to designate different zonings for the upper and lower sections of HYW Stream as the habitat characteristics and site circumstances were not the same along the whole HYW Stream and its riparian areas. Moreover, it also stated that the area zoned “REC” along HYW Stream had not been identified to have high ecological significance under the FCA Study. This was contrary to the findings of the FCA Study which recognised that the whole HYW Stream was of high ecological value;
- (e) noting the ecological significance of HYW Stream, it was unacceptable for PlanD to designate a major portion of the stream as “REC” on the OZP;

Ping Yuen River

- (f) according to the FCA Study, the upper section of Ping Yuen River was of moderate ecological value as an uncommon dragonfly species of regional concern was found in this area. The study had also recommended that the upper section of Ping Yuen River was of sufficient ecological value to be added to AFCD's register of Ecologically Important Stream. Since the lower section of Ping Yuen River, which were adjacent to village settlement, had been channelised, there was no dispute that the ecological value of the lower section of the river was not high;
- (g) despite the difference in ecological value for different sections of the river, the whole Ping Yuen River was zoned "REC" on the OZP;

"REC" zoning

- (h) as land filling, paving and excavation activities were not restricted under the "REC" zoning, such activities along the riparian areas of HYW Stream would cause adverse ecological impact to the stream. Besides, construction runoff from site formation works at the riparian areas would degrade the water quality and have significant adverse impact on the stream. Some recreational uses such as barbecue spot, which were always permitted in the "REC" zone, would generate large amount of domestic sewage and municipal waste. Such developments might also adversely affect the stream and its riparian areas; and
- (i) the high ecological value of HYW Stream and its riparian area as well as the upper section of Ping Yuen River would be destroyed if the inappropriate zoning of "REC" for these streams on the draft OZP was not rectified.

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

HYW Stream

187. Noting that the three streams in Sha Tau Kok (STK), which were of moderate to high ecological value, were partly zoned “GB” or “AGR” on the draft STK OZP, a Member wondered if there was any special consideration in designating a “REC” zoning for a major section of HYW Stream which was of high ecological value.

188. Mr C.K. Soh said that the zoning of the OZP generally followed the recommendations of the FCA Study. While HYW Stream was identified as having high ecological value under the FCA Study, the designation of land use zoning for the stream and its riparian area had taken into account other relevant considerations, such as the existing conditions, surrounding land uses and development potential of the area. According to the Recommended Development Plan of TKLN under the FCA Study, the undisturbed upper section of HYW Stream was recommended a “GB” zoning in recognition of its high ecological value whereas a “REC” zone was proposed for the downstream areas having regard to the habitat types of the area and its suitability for some form of developments.

189. Mr C.K. Soh continued to say that in considering the appropriate zoning for the stream and its riparian area, apart from the recommendations of the FCA Study, all relevant factors, including the existing conditions, surrounding land uses, the planning intention for the area, and the public views as well as professional advice from DAFC had been taken into account. The “REC” zoning was in line with one of the aims of the FCA Study which was to improve the local economy and the livelihood of local residents whilst the conservation of the ecological value of HYW Stream had been respected and taken into account in formulating zoning designations.

190. The same Member followed up and enquired why the three streams in STK and their riparian areas were not zoned “REC” if it was considered that such zoning could help improve the livelihood of local villagers. In response, Mr C.K. Soh said that some areas within the draft STK OZP had already been put under “REC” and “REC(1)” zonings, i.e. area south of Sha Tau Kok Road. Moreover, there was a genuine need to designate suitable “V” zones to meet the Small House demand of the indigenous villagers in the STK area. For the draft TKLN OZP, while some areas were zoned “GB” and “AGR”, areas close to

village clusters with potential for low-density recreational uses were zoned “REC”.

191. In response to the Chairman’s question on whether the designation of appropriate land use zonings for different streams and their riparian areas would vary according to local circumstances, Mr C.K. Soh said that in considering the appropriate zoning for the stream and its riparian area, PlanD had taken into account all relevant considerations including the existing conditions of the stream and its riparian area as well as other specific site circumstances. For HYW Stream, its undisturbed upper section had been zoned “GB” to protect the ecological value of the stream. As the habitat types along the middle section of HYW Stream were mostly covered by fallow agricultural land, seasonally wet grassland and grassland/shrubland, and the area was near some village settlements where more human activities were found, the area was considered suitable for some low-density recreational developments and hence it was given a “REC” zoning. The current planning had struck a balance between conservation needs and the development needs of the villagers which was in line with the objectives of the FCA Study.

Permitted Uses within the “REC” zone

192. A Member asked which Column 1 uses under the “REC” zone would help the local villagers to improve their livelihood. Moreover, as the representer was worried that barbecue spot might pollute the natural stream and degrade its ecological value, the Member asked whether the “REC” zone could provide sufficient protection for HYW Stream which was of high ecological value.

193. Mr C.K. Soh said that according to the FCA Study, the “REC” zone was intended for promotion of eco-tourism. Small-scale recreational developments in support of eco-tourism such as holiday camp, picnic area, which were compatible with the rural setting and could blend in with the living environment of the local villagers, were always permitted. Besides, ‘Place of Recreation, Sports or Culture’ including hobby farm, organic farm, horse-riding school and visitor centre, etc. was a Column 1 use. These uses, which would attract more visitors to the area, might provide indirect economic benefits to the nearby villages. Mr Soh went on to say that those commercially operated barbecue sites, as shown on a photo displayed by the representer, were not the kind of intended recreational

development for the “REC” zone.

194. The Chairman supplemented that although ‘Barbecue Spot’ was a Column 1 use under the “REC” zone, it would exclude those barbecue sites which were privately owned and/or commercially operated in accordance with the Definition of Terms used in Statutory Plans (DoTs).

195. Mr Tony Nip appreciated PlanD’s views that the privately owned barbecue sites were not the kind of intended recreational use for the “REC” zone as these uses might have adverse ecological impact on the natural stream. He, however, was worried that such good intention might not be taken into account in the consideration of planning applications for barbecue sites in future upon the change of planning officials and Board members over the years. In this regard, he considered it more appropriate to have such intention duly incorporated into the statutory planning framework.

196. The Chairman said that the DoTs, which had included the definition of ‘Barbecue Spot’, was a public document formally endorsed by the Board and the discussions made at the meeting would be documented for future reference as necessary in the consideration of planning applications in future.

197. Mr Tony Nip continued to say that since the high ecological value of HYW Stream had been well-recognised, his request to give a conservation zoning only for HYW Stream and its riparian area was not unreasonable. Only through the rezoning of the stream and its riparian area from “REC” to other conservation zones, such as “GB” and “CA”, could the objective of striking a balance between conservation needs and the development be achieved in the Area. In response, the Chairman said that his views would be taken into account in the deliberation session of the meeting.

Area of “REC” zone

198. Another Member asked DPO/STN to explain the rationale for designating an extensive area as “REC” even when some areas were covered by mature trees and vegetation. Specifically, given that the site characteristics of the portion of “REC” zone at the

north-eastern corner of the Area was similar to that of the adjoining “GB” zone to the south, this Member asked why the said portion was zoned “REC” instead of “GB”.

199. Mr C.K. Soh explained, with reference to Plan H-3 of the Paper, that the “GB” zones within the larger “REC” zone were mostly areas of higher elevation covered by mature trees. The land surrounding these “GB” zones were relatively flat and suitable for low-density recreational development, and the area was therefore zoned “REC” to reflect its potential for low-density recreational developments. In considering the appropriate zoning for the Area, the topography and specific site characteristics of the Area were duly considered. For the portion of “REC” zone at the north-western corner, he said that the adjacent “GB” zone near the upstream of HYW Stream was mainly hillslopes not suitable for development while the land within that portion of “REC” zone was rather flat. Although both areas were covered by trees and vegetations, those vegetations were not identified as having high preservation value. Hence, the designation of “REC” zone for that area was not inappropriate and was in line with the planning intention of encouraging eco-tourism. Eco-tourism and other small-scale, low-density recreational developments would not be incompatible with the rural environment of the area.

200. Mr K.K. Ling, D of Plan, said that as revealed in his site inspection to the Area, the existing “GB” pockets in the western part of the Area were mostly well-vegetated knolls while the areas under “REC” and “AGR” zonings were flat land lying between these small knolls. He asked DPO/STN to further elaborate on the topography and characteristics of this area. Moreover, he also asked DPO/STN to brief Members on the existing land use and site conditions of the large “REC” zone.

201. Mr C.K. Soh said that the designation of an area as “GB” would normally be based on two criteria: (i) the site was well vegetated with mature trees; and (ii) the site was not suitable for development given its topography and natural features, such as elevated area and slopes. The “REC” zone in the northeast was relatively flat and characterised by a mix of land uses, including woodland and grassland near the upper section of HYW Stream, and grassland/shrubland intermixed with fallow agricultural land and village settlements in the middle and lower sections of the stream. The “REC” zoning would allow more flexibility in the utilisation of land and low-density recreational uses at suitable locations by the

villagers could minimise potential adverse impact on the rural environment.

Impact of “REC” zone on HYW Stream

202. Mr Tony Nip said that since some engineering works such as site formation, paving and land excavation were not prohibited in the “REC” zone, any recreational development, irrespective of its scale and density, would have significant adverse ecological impact on the local habitat and the natural stream. Citing the Sha Tau Kok Farm as an example, the site formation and other engineering works in relation to the development of the farm had severely damaged the environment and the local habitat. Given that any damage done to the natural stream and its associated habitat was irreversible, he reiterated that the “REC” zoning was not appropriate and urged the Board to designate a conservation zoning for HYW Stream and its riparian area of 20 or 30m so as to better protect the high ecological value of the stream.

203. In response to a Member’s questions on the definition of low-density recreational development and whether there was any mechanism to ensure that the future recreational developments within the “REC” zone would be of low-density, Mr C.K. Soh said that low-density recreational development referred to the development intensity of the use. According to the user schedule of the Notes for the “REC” zone, Column 1 uses comprised mainly low-density recreational developments while other developments which might be of higher development intensity such as ‘Flat’, ‘Hotel’ were put under Column 2 in order to maintain necessary planning control by the Board through the planning application system. Examples of some recreational developments such as horse riding schools, visitor centres, organic farms and hobby farms, which were always permitted within the “REC” zone, were stated in paragraph 9.3.4 of the Explanatory Statement (ES) of the OZP.

204. Since site formation works were not prohibited under the “REC” zone, Mr Tony Nip repeated his stance that any site formation works associated with any scale of recreational development would cause significant ecological impact to the environment.

205. To address the representer’s concern that the works carried out along the stream would have significant adverse ecological impact on the stream, Mr Soh said that ‘diversion

of streams' and 'filling of pond' in "REC" zone would require planning permission from the Board.

206. In response to a Member's enquiry on whether eco-tourism was always permitted within "GB" or "CA" zone, Mr C.K. Soh said that eco-tourism, if purely involved hiking activities, was allowed within the "GB" and "CA" zones. However, should the provision of overnight accommodation was required for eco-tourism, 'holiday camp' use, which was always permitted within "REC" zone, was not permitted within "CA" zone and would require planning permission from the Board within "GB" zone. In this regard, "REC" zone would provide more flexibility in promoting eco-tourism.

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

207. Noting that 'Barbecue Spot', which was a Column 1 use under "REC" zone, might cause adverse impact to the surrounding environment, a Member asked whether there was any measure to ensure that the barbecue spot would not have adverse impact on the environment.

208. Mr C.K. Soh said that according to DoT, 'Barbecue Spot' excluded those barbecue sites which were privately owned and/or commercially operated. As such, large scale commercially operated barbecue establishments would not be permitted within the "REC" zone.

209. Dr Chiu Sien Tuck (R3) said that the request of the green/concern groups was simply to designate a conservation zoning for the stream course itself and its 30m riparian area so as to ensure sufficient protection to the natural stream courses. They had no objection to any development of any intensity beyond the 30m riparian zone.

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

210. A Member asked DPO/STN whether consideration had been given to designate both sides of HYW Stream as "GB" or "AGR" instead of "REC" in recognition of the ecological importance of the stream.

211. Mr C.K. Soh said that during the preparation of the draft OZP, PlanD had carried out a review on the zoning of HYW Stream in consultation with AFCD. As a result, a strip of land along the natural stream course at Heung Yuen Wai between the north of Heung Yuen Wai and Ha Heung Yuen was rezoned from “REC” to “AGR” and a piece of land east of Heung Yuen Wai was rezoned from “REC” to “GB” in view of their ecological values.

212. Mr Tony Nip, by making reference to an aerial photo (Plan H-3 of the Paper), said that the whole HYW Stream had remained largely natural. Although part of the middle and lower sections of the stream near Tsung Yuen Ha fell within the “AGR” zone, the stream course was not sufficiently protected as it directly abutted the adjoining “REC” zone to the north. PlanD’s rezoning proposal as mentioned in paragraph 211 above was insignificant to the overall protection of HYW Stream.

213. As the representers’ representatives had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and inform the representers of the Board’s decision in due course. The Chairman thanked the representers’ representatives and Government representatives for attending the hearing. They all left the meeting at this point.

Deliberation

214. The Chairman invited Members to consider the representations and comment, taking into consideration all the written submissions and the oral presentations and materials presented at the meeting.

HYW Stream

215. The Chairman said that the main issue raised by the representers was that HYW Stream, which was of high ecological value according to the FCA Study, was not sufficiently protected by the existing “REC” zoning given that some of the engineering works incidental to the recreational developments along the stream might have adverse

impact on the ecological aspect of the natural stream. He asked Members to express their views on whether the “REC” zoning for the stream and its riparian area should be reviewed.

216. A Member said that consideration should be given to reviewing the “REC” zoning for HYW Stream in order to have better protection for this stream which was of high ecological value. The designation of a conservation zoning for the stream would be consistent with the approach adopted by the Board in the protection of other natural streams in other areas, e.g. Lin Ma Hang Stream.

217. The Vice-chairman recalled that during the Board’s visit to the Closed Area a few years ago, Members generally had a consensus view that the natural landscape and rural setting of the Closed Area should be preserved as far as possible. He considered that the existing natural environment in the northern part of the Closed Area along Shenzhen River should serve as a green buffer from the high-density developments in Shenzhen. For the draft Ma Tso Lung and Hoo Hok Wai OZP, the designation of “CA” zone for the extensive fish ponds in the northern part of Hoo Hok Wai was considered appropriate. However, for the Ta Kwu Ling North area, he could not understand the rationale in designating a vast “REC” zone in the northern part while the ‘GB’ zones were small and scattered covering only those well-vegetated knolls. Although the representer had reiterated the ecological importance of HYW Stream as it provided an important habitat for some rare fish and bird species, AFCD had not provided sufficient support to rezone the stream and its riparian area into some conservation zones. With a view to achieving the overall planning objective of the FCA Study and to provide a green buffer in the northern part of the Area, consideration might be given to designate more “GB” or even “CA” zone in this area. He considered it prudent to request PlanD to review the land use zonings of the draft OZP with a view to provide sufficient green buffer in the Area.

218. The Chairman said that the appropriate zoning for HYW stream and its riparian area should be carefully considered having regard to the ecological value of the stream and the advice from AFCD.

219. A Member said that the objective to help improve the livelihood of local villagers should not be a material consideration in designating a large “REC” zone for the

Area. This Member also said that the 30m riparian area suggested by the green groups should be subject to review given that a riparian area of 20m had already been acceptable to the green groups in other areas. The Member also agreed that PlanD should be requested to further review the appropriate zoning for the northern part of the Area in order to ensure sufficient protection for HYW Stream.

220. Mr K.K. Ling concurred with the Vice-chairman's views that the areas released from the Closed Area should serve as a green buffer between the two high-density development nodes, i.e. Shenzhen in the north and the future New Development Areas in the south. This was in line with the vision for the Closed Area as proposed in the FCA Study. Moreover, as the local villagers had an expectation on increased development opportunities for the Closed Area upon its opening up, the future planning for the Closed Area would also need to cater for the reasonable development needs of the villagers. In view of the above, during the preparation of statutory plans for the FCA, PlanD had been working closely with the concerned stakeholders including green/concern groups and local villagers over the past few years with a view to achieving an optimal balance between conservation and development. While he considered that the zonings for the three streams in the STK area were appropriate given that the streams were near the village settlements and had been channelised downstream, he agreed that the zoning for HYW Stream should be reviewed. For the large "REC" zone, it was so designated in the FCA Study after consultation with the local villagers who opined that the area was suitable for low-density eco-tourism or other farming-related uses. He considered that there was scope to review the coverage of the "REC" zone if opportunity arose in future.

221. At the request of the Chairman, the Secretary briefed Members on the procedures of conducting the hearing as follows:

- (a) if the Board could make a decision on the representations and give a clear instruction to PlanD on the amendments to be made, e.g., the extent of the riparian area and the appropriate zoning for HYW Stream and its riparian area, the representation hearing procedure of this meeting would be completed;

- (b) however, if Members considered that a decision could not be made at the moment and PlanD should be requested to conduct a review to determine the appropriate zoning for the stream and its riparian area, and the review results would need to be submitted to the Board for further consideration, the representation hearing procedure could not be considered as completed and the hearing would have to be adjourned until completion of PlanD's review. In that circumstances, all representers and commenters had to be invited to the meeting again to express their views on the results of PlanD's review; and

- (c) if the Board considered that amendments should be made to meet the representations, Members would need to decide the specific amendments to be made to the OZP. For example, (i) whether it was necessary to amend the Notes for the "REC" zone to clearly reflect its planning intention for the development of low-density recreational developments, notwithstanding that the ES had already cited some examples of the intended recreational developments; and (ii) whether HYW Stream and its riparian area (say 20m) should be rezoned from "REC" to "GB" or "AGR". The amendments to the draft OZP would be submitted to the Board for agreement prior to its gazetting under section 6C(2) of the Ordinance.

222. A Member opined that the representer's proposal in relation to HYW Stream was very clear. R3 only requested for a conservation zoning for a linear strip of land comprising the stream and its 20m riparian area. This Member suggested designating the concerned area as "GB" and reviewing the extent of the large "REC" zone.

223. In relation to this Member's suggestion, Mr K.K. Ling commented that should the Board decide to request PlanD to conduct a review on the extent of the "REC" zones of the OZP, it was suggested that the review should be confined to the "REC" zone in the northern part of the Area which included HYW Stream. Consideration might be given to rezone part of the "REC" area to "AGR" in order to give better protection to the stream since any building developments, diversion of streams or filling of land/pond within the "AGR" zone would require planning permission from the Board.

224. The Secretary clarified that the purpose of the meeting was to consider the representations and comments of the OZP and Members should focus their discussion on the subject of the representations and decide whether amendments should be made to the OZP to meet the representations. The major grounds of representations raised by the green groups were related to the inappropriate zoning for HYW Stream. Given that the entire stream was assessed to have high ecological value under the FCA Study, Members should consider whether the existing “REC” zone would provide sufficient protection for the ecologically important HYW Stream and its riparian area. In view of the sentiment of some Members that the “REC” zoning for HYW Stream and its riparian area should be reviewed to provide more protection for the stream and that a riparian area of 20m, which was consistent with that for other streams, e.g. Lin Ma Hang Stream, would be sufficient, Members were invited to consider whether “GB” or “AGR” zoning would be more appropriate for HYW Stream and its 20m riparian area. She said that both “GB” and “AGR” zones could provide protection for the natural stream but the level of protection would be different. In response to some Members’ suggestions to have a review on the whole “REC” zone which was not the subject of representation, she said that such review would entail the carrying out of a detailed study including relevant technical assessments.

225. One Member considered that it was undesirable to review only the zoning of a linear strip of land currently occupied by HYW Stream and its riparian area. This Member had the following views on the existing zonings of the OZP:

- (a) the “GB” zone at the eastern part of the area should be enlarged to include HYW Stream and its 20m riparian area;
- (b) the “GB” pockets at the western part of the area should be amalgamated into a larger “GB” zone; and
- (c) appropriate development restrictions should be incorporated into the Notes for the “REC” zone so as to ensure the development of low-density recreational development.

226. The Chairman reminded Members that the draft OZP had been considered and

agreed by the Board as suitable for public inspection and the subject meeting was part of the statutory plan-making process to consider the representations and comments to the draft OZP. As the subject of representations was related to the zoning of HYW Stream, Members should decide whether the zoning of the stream should be amended to meet the representations. A comprehensive review of the existing land use zonings of the OZP as suggested by some Members would require a detailed study supported by various technical assessments. Having considered Members' general views that HYW Stream and its 20m riparian area should be given a more appropriate zoning to provide better protection for this area, similar to the arrangement for Lin Ma Hang Stream as displayed on the visualiser, the Chairman suggested and Members agreed that PlanD should be requested to review, in consultation with AFCD, whether HYW Stream and its 20m riparian zone should be rezoned to "GB" or "AGR". The amendments would be submitted to the Board for consideration and upon the Board's agreement, the amendments would be gazetted for further representation in accordance with section 6C(2) of the Ordinance.

[Professor Eddie C.M. Hui and Mr H.F. Leung left the meeting at this point.]

227. The Secretary suggested that PlanD should also take the opportunity to suitably amend the Notes for the "REC" zone to clearly reflect the planning intention for low-density recreational developments. Members agreed.

Designation of "V" zones

228. Members noted and agreed to the following responses to the grounds of representations as suggested by PlanD:

- (a) the boundaries of the "V" zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as 'VE', Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics. DAFC considered that further investigation on the species or habitats within the "V" zone was not necessary;

- (b) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the six recognised villages within the TKLN area;
- (c) the sewage disposal and site formation works of Small House would be considered by concerned departments during the processing of the Small House application by Lands Department (LandsD); and
- (d) PlanD would continue to monitor the situation and update the existing VLPs, if required. The preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD.

229. In view of the above, Members decided to uphold Representations R2 and R3 by amending the zoning of HYW Stream and its 20m riparian area and to amend the Notes for “REC” zone of the OZP to clearly reflect the planning intention for low-density recreational developments. Members also agreed to request PlanD to work out the appropriate zoning for HYW Stream and its 20m riparian zone in consultation with AFCD and submit the proposed amendments to the draft Ta Kwu Ling North OZP No. S/NE-TKLN/1 to the Board for agreement prior to the gazetting of the proposed amendments under section 6C(2) of the Ordinance.

230. Moreover, Members decided not to uphold Representations R1 and R4 and considered that the OZP should not be amended to meet the representations. Members then went through the reasons for not upholding Representations R1 and R4 as detailed in paragraph 7(e) to (h) of the Paper and considered that the reasons were appropriate.

Representations No. R2 and R3

231. After further deliberation, the Board agreed to meet Representations R2 and R3 by amending the zoning of HYW Stream and its 20m riparian area and to amend the Notes for “REC” zone of the OZP to clearly reflect the planning intention for low-density

recreational developments.

Representations No. R1 and R4

232. After further deliberation, the Board decided not to uphold Representations R1 and R4 for the following reasons:

- “(a) the boundaries of the “V” zones have taken into account the recommendations of the FCA Study and relevant factors such as local topography, settlement patterns, ecologically important area and other site specific characteristics. Further investigation on the species or habitats within the “V” zone is not necessary (R1);
- (b) there is a need to designate suitable “V” zones within the planning scheme area to meet the Small House demand of indigenous villagers in TKLN area (R4);
- (c) the sewage disposal and site formation works of Small House will be considered by concerned government departments during the processing of the Small House application by LandsD and have to comply with the requirements of relevant departments (R4); and
- (d) the preparation of VLPs for villages covered by existing OZPs will depend on a number of factors such as implementation prospect of the VLPs, and manpower and priority of work within PlanD (R4).”

[The Chairman left the meeting temporarily and the Vice-chairman took over the Chairmanship at the point.]

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

Agenda Item 9

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the Draft Man Kam To Outline Zoning Plan No. S/NE-MKT/1

(TPB Paper No. 9524)

[The hearing was conducted in Cantonese.]

233. The following Government representatives, representers and their representatives were invited to the meeting at this point:

- | | | |
|--------------------|---|-------------------------------------------------------------------------------------------------|
| Mr C.K. Soh | - | District Planning Officer/Shu Tin, Tai Po and North, Planning Department (DPO/STN, PlanD) |
| Mr Wallace Tang | - | Senior Town Planner/Shu Tin, Tai Po and North, (STP/STN), PlanD |
| Ms Cindy Wong | - | Town Planner/Shu Tin, Tai Po and North, (TP/STN), PlanD |
| Mr Cheung Kwok Wai | - | Senior Nature Conservation Officer, (North), Agriculture, Fisheries and Conservation Department |

R3 – Kadoorie Farm and Botanic Garden Corporation

- | | | |
|-------------------|---|-------------------------------|
| Ms Woo Ming Chuan |] | |
| Dr Chiu Sein Tuck |] | Representer's representatives |
| Mr Tony Nip |] | |

234. The Vice-chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the background to the representations.

[The Chairman returned to the meeting and resumed the Chairmanship at this point.]

235. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, PlanD, made the following main points as detailed in paragraph 4 of the Paper:

Background

- (a) in 2006, the Security Bureau conducted a review of the coverage of the then Closed Area and concluded that the objective of maintaining boundary security could still be achieved even if the existing Closed Area was reduced;
- (b) a Consultancy Study entitled “Study on Land Use Planning for the Closed Area - Feasibility Study” (FCA Study) was commenced in 2007 and completed in 2010 to formulate a land use planning framework to guide the conservation and development of the Closed Area, based on the principle of sustainable development. The land use framework integrated land use proposals that enhanced conservation, while promoting appropriate development to enhance the livelihood of local residents and prosperity of local economy;
- (c) five draft Development Permission Area (DPA) Plans for the Closed Area were prepared to take forward the recommendations of the FCA Study;
- (d) the key chronology of events for the draft Man Kam To Outline Zoning Plan No. S/NE-MKT/1 (the OZP) were:
 - (i) on 30.7.2010, the draft Man Kam To DPA Plan No. DPA/NE-MKT/1 (the DPA Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance);
 - (ii) the Town Planning Board (the Board) considered the representations and comment, and, after further review of the land use proposals by PlanD, published the amendments to the draft DPA Plan in relation to the “Village Type Development” (“V”) zone of Chow Tin Tsuen

for public inspection on 28.10.2011;

- (iii) on 8.5.2012, the Chief Executive in Council (CE in C) approved the draft DPA Plan under section 9(1)(a) of the Ordinance;
- (iv) on 26.4.2013, the Board gave preliminary consideration to the draft OZP and agreed the draft OZP was suitable for submission to the North District Council (NDC) and Ta Kwu Ling District Rural Committee (TKLDRC) for consultation. NDC and TKLDRC were consulted in May 2013 and consultation was also extended to the green/concern groups (including World Wide Fund for Nature Hong Kong (WWF), Kadoorie Farm and Botanic Garden Corporation (KFBG), the Conservancy Association (CA), Designing Hong Kong Limited (DHKL) and Green Power);
- (v) on 28.6.2013, the Board gave further consideration to the draft OZP, together with the comments received from concerned parties; and
- (vi) on 19.7.2013, the draft OZP No. S/NE-MKT/1 was exhibited for public inspection under section 5 of the Ordinance. During the exhibition period, a total of three representations and one comment were received;

Planning Scheme Area

- (e) the planning scheme area (the Area) covered a total area of about 354 hectares. It was located approximately 3.5 km to the north of Fanling/Sheung Shui. It was bounded by the southern bank of Sham Chun River in the north, Ping Che Road in the east, Hung Lung Hang in the southeast, Sha Ling Road in the southwest and Ng Tung River in the west;
- (f) the extensive lowlands mainly comprised arable land intermixed with

livestock farms and clusters of settlements, undisturbed woodlands, vegetated habitats and natural watercourses. The surroundings were predominantly agricultural land spotted with rural settlements;

- (g) there were four recognised villages within the Area, namely Muk Wu, Muk Wu Nga Yiu, Chow Tin Tsuen and Fung Wong Wu;

General Planning Intention

- (h) the general planning intention of the Area was to promote cultural conservation, recreation tourism, sustainable residential development and provide suitable facilities to meet the territorial need and cross-boundary infrastructure. It was also the planning intention to retain good quality agricultural land for agricultural purposes or leisure farming and to preserve the existing heritage features and historic buildings;

Representations

- (i) the three representations were submitted by green/concern groups. They considered that the ecologically valuable areas were insufficiently protected whilst the areas zoned “V” were considered excessive;
- (j) the main grounds of the representations as summarised in paragraph 2.2 of the Paper were:

Protection of ecologically valuable areas

- (i) KFBG had carried out a detailed biodiversity study in some rural areas which had reinforced earlier findings of the high ecological value of the lowland streams in the former Frontier Closed Area (FCA). The submissions and recommendations on the protection of ecological habitats, however, had not been given due consideration by the Government in the plan-making process (R2);

- (ii) the Authority was not paying sufficient attention to the obligations of the Convention on Biological Diversity (the Convention) which required the protection of important habitats especially ecosystems in pristine condition using a holistic approach. The obligations of the Convention should be reflected in the zonings of the OZP (R2);

- (iii) in the four letters/joint letters attached to R2's representation, the green/concern groups mainly suggested, among others, protection measures for habitats of high ecological value; and pointed out the adverse impact of inappropriate zoning on local conservation and landscape heritage (R2);

Active wet agricultural land and seasonally wet grassland at Chow Tin Tsuen

- (iv) the wet agricultural land and seasonally wet grassland at Chow Tin Tsuen had moderate ecological value according to the FCA Study. However, the areas were mostly zoned "V" on the OZP now, which was not intended for conservation purpose (R2);

Designation of "V" zones

- (v) survey should be conducted to ensure that species or habitats of conservation interest and agricultural land with good quality which might exist in the "V" zones could receive better protection by conservation zonings (R1);

- (vi) the demand of Small Houses was infinite and should be contained within existing village 'environs' ('VE') or "V" zone. Designating new "V" zone was contradictory to this containment policy (R3);

- (vii) the former FCA had high landscape and ecological values and all developments within the area should meet the highest landscape, streetscape and environmental standards and must be subject to

sustainable infrastructure layout plans and guidelines. However, the lack of village layout and infrastructure support within the “V” zone might lead to environmental deterioration (R3);

Responses to Grounds of Representations

- (k) responses to the representers’ views as summarised in paragraphs 5.13 of the Paper were:

Protection of ecologically valuable areas

- (i) extensive consultations with green groups, local villagers and stakeholders had been carried out in the course of preparing the draft DPA Plan and draft OZP. The Board had also heard and considered the representations and comment in respect of the draft MKT DPA Plan in accordance with the statutory requirements under the Ordinance. The views and comments raised by the green groups on the FCA including the conservation of ecologically important areas and stream courses in MKT area had been fully deliberated by the Board (R2);
- (ii) the ecologically sensitive areas (e.g. pond, secondary woodland and ‘fung-shui’ woodland) proposed in the FCA Study had been covered by appropriate conservation zonings including “CA” and “GB”. The OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBG in 2004. In the course of preparing the OZP, all major stakeholders including the green groups, local villagers and Rural Committees had been consulted and their views had been taken into account in drawing up the OZP. The OZP had struck a balance between conservation needs and the development needs of the villagers (R2);

Active wet agricultural land and seasonally wet grassland at Chow Tin

Tsuen

- (iii) according to the FCA Study, the wet agricultural land and seasonally wet grassland around Chow Tin Tsuen were of moderate ecological value. They were not natural habitats, and village settlements and human activities were found in the vicinity. The areas were zoned “AGR and “V” on the OZP. In considering the appropriate zoning for these areas, the Board had taken account of all relevant factors, including the existing conditions, surrounding land uses and the planning intention for the area, and the public views as well as professional advice from DAFC (R2);

Designation of “V” zones

- (iv) the boundaries of the “V” zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as the ‘VE’, Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics. Man Kam To Road and associated Border Crossing Point provided a significant ecological barrier between the western and eastern portions. DAFC considered that further investigation on the species or habitats within the “V” zone was not necessary (R1);
- (v) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the four recognised villages within MKT area, i.e. Muk Wu, Muk Wu Nga Yiu, Chow Tin Tsuen and Fung Wong Wu (R3);
- (vi) the sewage disposal and site formation works of Small House would be considered by concerned departments during the processing of the Small House application by Lands Department (LandsD). The arrangement of sewage disposal and carrying out of site formation works should comply with the requirements from the relevant government departments (R3); and

- (vii) PlanD would continue to monitor the situation and update the existing village layout plans (VLPs), if required. The preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs as well as manpower and priority of work within PlanD (R3);

Comment on Representations and Responses to Comment

- (l) C1 commented that the planning scheme area was close to the study area of the Preliminary Feasibility Study on Developing the New Territories North (NT North Study). If the draft OZP was approved, it would have pre-emptive effect on the forthcoming NT North Study;
- (m) the comment was not related to the draft OZP and the three representations received. The NT North Study was a strategic planning study to examine the development opportunities and constraints of the NT North and had no direct relationship with or implications on the draft MKT OZP (C1); and

PlanD's Views

- (n) based on the planning considerations and assessment in paragraph 5 of the Paper, PlanD's views were:
 - (i) representations R1 to R3 were not supported; and
 - (ii) representations R1 to R3 should not be upheld and the Plan should not be amended to meet the representations.

236. The Chairman then invited the representer's representatives to elaborate on their representations.

R2 – KFBB

237. With the aid of a Powerpoint Presentation, Mr Tony Nip made the following main points:

- (a) there was a very large “V” zone in the central part of the Area for Chow Tin Tsuen;
- (b) extensive stretch of wet agricultural land providing important foraging ground for many wetland birds and freshwater marsh, a rare type of habitat in Hong Kong, were found in Chow Tin Tsuen;
- (c) according to the FCA Study, the active wet agricultural land in Chow Tin Tsuen was of moderate ecological value as some bird species of local concern like Greater Painted-snipe was found;
- (d) however, the areas currently occupied by these important habitats were not properly protected since most of them fell within the “V” zone on the OZP; and
- (e) Members should thoroughly consider their vision for the future of the rural areas of Hong Kong.

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

239. A Member asked about the ecological significance of freshwater marsh in Chow Tin Tsuen. In response, Mr Tony Nip said that according to the FCA Study, Greater Painted-snipe, a species of local concern, and *Chinese Bull Frog Hoplobatrachus*, a Class II State Protected Species in China, were found in this area. Besides, as the freshwater marsh was a rare type of habitat, covering only about 0.4% of the area of Hong Kong’s habitat, this area was worthy of preservation.

240. In response to the same Member’s question, Mr Tony Nip said that the Greater

Painted-snipe was a wetland bird species of local concern as it was rarely found in Hong Kong.

241. As the representer's representatives had finished their presentations and Members had no further question to raise, the Chairman informed them that the hearing procedure had been completed and the Board would deliberate on the representations in their absence and inform the representers of the Board's decision in due course. The Chairman thanked the representer's representatives and Government representatives for attending the hearing. They all left the meeting at this point.

Deliberation

242. The Chairman invited Members to consider the representations and comment, taking into consideration all the written submissions and the oral presentations and materials presented at the meeting.

243. Members noted the following responses to the grounds of representations as suggested by PlanD:

- (a) extensive consultations with green groups, local villagers and stakeholders had been carried out in the course of preparing the draft DPA Plan and draft OZP;
- (b) the OZP generally followed the recommendations of the FCA Study which had taken into account the biodiversity study conducted by KFBG in 2004. The ecologically sensitive areas (e.g. pond, secondary woodland and 'fung-shui' woodland) proposed in the FCA Study had been covered by appropriate conservation zonings including "CA" and "GB" on the OZP;
- (c) according to the FCA Study, the wet agricultural land and seasonally wet grassland around Chow Tin Tsuen were of moderate ecological value. They were not natural habitats, and village settlements and human activities were found in the vicinity. In considering the appropriate

zoning for these areas, the Board had taken account of all relevant factors, including the existing conditions, surrounding land uses and the planning intention for the area, and the public views as well as professional advice from DAFC;

- (d) the boundaries of the “V” zones were carefully defined taking into account the recommendations of the FCA Study and various factors such as ‘VE’, Small House demand forecast, local topography, settlement patterns, ecologically important area and other site specific characteristics;
- (e) there was a need to designate “V” zone at suitable locations to meet Small House demand of indigenous villagers in the four recognised villages within MKT area, i.e. Muk Wu, Muk Wu Nga Yiu, Chow Tin Tsuen and Fung Wong Wu;
- (f) the arrangement of sewage disposal and carrying out of site formation works of Small House developments should comply with the requirements from the relevant government departments; and
- (g) the preparation of VLPs for villages covered by existing OZPs will depend on a number of factors such as implementation prospect of the VLPs, and manpower and priority of work within PlanD

244. In view of the above, Members did not support representations R1 to R3 and considered that representations R1 to R3 should not be upheld and the OZP should not be amended to meet the representations. Members then went through the reasons for not upholding representations R1 to R3 as detailed in paragraph 7 of the Paper and considered that the reasons were appropriate.

Representations No. R1 to R3

245. After further deliberation, Members decided not to uphold Representations. R1 to R3 for the following reasons:

- “(a) extensive consultations have been carried out with the green/concern groups, local villagers and stakeholders in the course of preparation of the DPA Plan and OZP. Their views have been fully deliberated by the Board. Appropriate zonings have been designated to those ecologically important areas requiring protection while striking a proper balance between conservation and development needs (R2);
- (b) the OZP prepared generally follows the recommendations of the FCA Study which has taken into account the biodiversity study conducted by KFBBG in 2004. The importance of biological diversity has been reflected in the land use zonings of the OZP (R2);
- (c) the active wet agricultural land and seasonally wet grassland at Chow Tin Tsuen have not been identified of high ecological/conservation significance under the FCA Study. The “AGR” and “V” zonings are appropriate for the current rural setting of the environment (R2);
- (d) the boundaries of the “V” zones have taken into account the recommendations of the FCA Study and relevant factors such as local topography, settlement patterns, ecologically important area and other site specific characteristics. Further investigation on the species or habitats within the “V” zone is not necessary (R1);
- (e) there is a need to designate suitable “V” zones within the planning scheme area to meet the Small House demand of indigenous villagers in the MKT area (R3);
- (f) the sewage disposal and site formation works of Small House will be considered by concerned government departments during the processing of the Small House application by LandsD and have to comply with the requirements of relevant departments (R3); and
- (g) the preparation of VLPs for villages covered by existing OZPs will depend

on a number of factors such as implementation prospect of the VLPs, and manpower and priority of work within PlanD (R3).”

Agenda Items 10 to 12

[Closed Meeting]

246. These items were recorded under confidential cover.

Agenda Item 13

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

247. The Chairman briefed the Members that a photo-taking session for the current term of Members had been scheduled on 28.3.2014. Members would be notified of the detailed arrangement later.

248. There being no other business, the meeting closed at 7:00 p.m.