

1. The meeting was resumed at 9:10 a.m. on 8.5.2014.
2. The following members and the Secretary were present at the resumed meeting:

Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Anita W.T. Ma

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr Francis T.K. Ip

Director of Lands

Ms Bernadette H.H. Linn

Assistant Director (2), Home Affairs Department

Mr Eric K.S. Hui

Deputy Director of Environment Protection

Mr C.W. Tse

Director of Planning

Mr K.K. Ling

Draft Hoi Ha Outline Zoning Plan (OZP) No. S/NE-HH/1

**Group 2**

*Representations*

R799 to R10735 and R10750 to R10934

*Comments*

C1 to C3675

Draft So Lo Pun OZP No. S/NE-SLP/1

**Group 2**

*Representations*

R799 to R10735 and R10818 to R10858

*Comments*

C1 to C3668 and C3677

Draft Pak Lap OZP No. S/SK-PL/1

**Group 2**

*Representations*

R799 to R10735 and R10738 to R10775

*Comments*

C1 to C3669

Presentation and Question Session

[Open meeting]

3. The following Government representatives were invited to the meeting at this point:

Mr C.K. Soh	District Planning Officer/Shau Tin, Tai Po and North, Planning Department (DPO/STN, PlanD)
Mr David Y.M. Ng	Senior Town Planner/Country Park Enclaves (STP/CPE), PlanD
Mr Ivan M.K. Chung	District Planning Officer/Sai Kung and Islands

(DPO/SKIs), PlanD

Ms Lisa Y.M. Chau	Town Planner/Sai Kung (TP/SK), PlanD
Mr Cary P.H. Ho	Senior Nature Conservation Officer (South), Agriculture, Fisheries and Conservation Department (SNC/S, AFCD)
Mr K.W. Cheung	Senior Nature Conservation Officer (North) (SNC/N), AFCD
Mr Alan L.K. Chan	Senior Marine Parks Officer (SMP), AFCD
Mr K.S. Cheung	Country Parks Officer (Special Duty) (CPO(SD)), AFCD

4. The following representers or representers' representatives were invited to the meeting at this point:

R799 - Designing Hong Kong Limited

Mr Paul Zimmerman	]	Representer's representatives
Ms Debby K.L. Chan	]	

HH-R10874, SLP-R10820, PL-R10738 – WWF-Hong Kong

*(Please refer to Appendix A for a list of representers who had authorised WWF-Hong Kong as their representative.)*

Mr Michael W.N. Lau	]	Representers' representatives
Mr Andrew Chan	]	
Mr Tobi Lau	]	

HH-R10883, SLP-R10821, PL-R10739 - Kadoorie Farm & Botanic Garden Corporation (KFBG)

*(Please refer to Appendix A for a list of representers who had authorised*

*KFBG as their representative.)*

Mr Tony Nip	]	Representers' representatives
Mr Chiu Sein Tuck	]	
Mr Woo Ming Chuan	]	
Mr Gary Ades	]	
Mr Andy Brown	]	

R10587 - Ruy Barretto S.C.

Mr Ruy Barretto	-	Representer
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R10543 - Chan Ka Lok

Mr Chan Ka Lok	-	Representer
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HH-R10902, SLP-R10825, PL-R10747 – Wu Chi Wai

Mr Wu Chi Wai	-	Representer
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R1980 - Martin Williams

Mr Martin Williams	-	Representer
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R6591 - Ida B.S. Lee

Ms Ida B.S. Lee	-	Representer
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R6401 - Lai Yin Mei

Mr Jan K.C. Chan	-	Representer's representative
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5. The Chairman extended a welcome and explained the procedure of the hearing. He said that the meeting would be conducted in accordance with the “Guidance Notes on Attending the Meeting for Consideration of the Representations and Comments in respect of the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1, the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/1 and the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1” (Guidance Notes) which had been provided to all representers/commenters prior to the meeting. In particular, he highlighted the following main points:

- (a) in view of the large number of representations and comments received and some 100 representers/commenters had indicated that they would either attend in person or had authorised representatives, it was necessary to limit the time for making oral submissions;
- (b) each representer/commenter would be allotted a 10-minute speaking time in respect of each concerned OZP. However, to provide flexibility to representers/commenters to suit their circumstances, there were arrangements to allow cumulative speaking time for authorised representatives, swapping of allotted time with other representers/commenters and requesting for extension of time for making the oral submission;
- (c) the oral submission should be confined to the grounds of representation/comment in the written representations/comments already submitted to the Town Planning Board (the Board) during the exhibition period of the respective OZPs/publication period of the representations; and
- (d) to ensure a smooth and efficient conduct of the meeting, the Chairman might request the representer/commenter not to repeat unnecessarily the same points of arguments which had already been presented by others at the same meeting. Representers/commenters should avoid reading out or repeating statements contained in the written representations/comments already submitted, as the written submissions had already been provided to Members for their consideration.

6. The Chairman said that each presentation, except with time extension allowed, should be within 10 minutes and there was a timer device to alert the representers and representer's representatives 2 minutes before the allotted 10-minute time was to expire and when the allotted 10-minute time limit was up.

7. Members noted the proposed programme tabled by the representers, which

included the names of persons who would make oral representations, the contents of the presentations and the estimated time of presentation.

8. The Chairman said that the representatives of PlanD would first be invited to make a presentation on the three draft OZPs. After that, the representers/authorized representatives would be invited to make their presentations following the sequence in the proposed programme. There would be a Q & A session which Members could direct question(s) to any attendee(s) of the meeting after all attendees had completed their presentations in the afternoon session. Lunch break would be from about 12:45 pm to 2:00 pm and there might be one short break in the morning and one to two short breaks in the afternoon, as needed. He then invited the representatives of PlanD to brief Members on the representations and comments in respect of the draft Hoi Ha OZP, the draft So Lo Pun OZP and the draft Pak Lap OZP.

9. With the aid of Powerpoint presentations, Mr C.K. Soh, DPO/STN and Mr Ivan M.K. Chung, DPO/SKIs repeated the presentations which were made in the session of the meeting on 28.4.2014 as recorded in paragraphs 9 to 11 of the minutes of that session.

[Dr Wilton W.T. Fok arrived to join the meeting, Mr Francis T.K. Ip, Ms Anita W.T. Ma, and Ms Bernadette H.H. Linn returned to join the meeting and Ms Janice W.M. Lai left the meeting temporarily during the presentations.]

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

#### R799 – Designing Hong Kong Limited

11. With the aid of a Powerpoint presentation, Mr Paul Zimmerman made the following main points:

##### Introduction

- (a) he was the Chief Executive Officer of Designing Hong Kong Limited; member of the Steering Committee on Biodiversity Strategy and Action

Plan; Chairman of the Focus Group on Terrestrial Habitat Identification, Protection and Management; member of Harbourfront Commission; and a district councillor;

- (b) the choice before the Board was whether to allow incremental development in the country park enclaves (CPE) or to conserve the country park and send a clear message to the land owners;
- (c) the Save Our Country Parks Alliance (the Alliance) was an alliance set up some 15 years ago after the Tai Long Wan incident. The Alliance included nearly all green groups in Hong Kong. The Alliance had gained a lot of support from members of the public, visitors to country parks, hikers, legislators, etc. The Alliance had also reached out to the community, including holding consultations with villagers and Heung Yee Kuk;
- (d) over 10,000 representations were received on the three outline zoning plans (OZPs) indicating strong opposition to zoning agricultural land in the CPEs as “Village Type Development” (“V”) to allow new Small House developments. The main grounds of the representations were that “V” zones facilitated fraud and destruction; developments under the Small House Policy was incompatible with country parks; and the natural heritage of Hong Kong people should not be put up for sale. Under the Town Planning Ordinance (the Ordinance), only the “Conservation Area” (“CA”) zoning offered reasonable protection against incompatible development and eco-vandalism; and only the Country Parks Ordinance (CPO) could provide management control as AFCD had wardens to patrol the country parks;
- (e) despite that LandsD would circulate Small House applications to relevant departments for comments and Small House developments should comply with the Environmental Protection Department’s Practice Note for Professional Person (ProPECC PN), in reality, Small House developments were chaotic and created a lot of adverse impacts

in terms of drainage, sewerage, tree felling and illegal road construction;

- (f) two plans were shown to compare Ho Chung in 1990 and 2014. The area occupied by Small House developments had expanded tremendously over the years because of the introduction of “V” zones in the area. The same should not be allowed in other CPEs;
- (g) CPEs were integral to country parks in terms of their ecology, landscape values and recreation values. There was no distinct boundary between the country parks and the CPEs. In fact, in the Explanatory Statements (ES) of the respective OZPs, it was indicated that Hoi Ha, Pak Lap and So Lo Pun were integral parts of Sai Kung West Country Park and Hoi Ha Wan Marine Park, Sai Kung East Country Park, and Plover Cove Country Park respectively. It was also indicated in the ES of the So Lo Pun OZP that development which might adversely affect the rural character and the ecologically sensitive areas would not be recommended and no large-scale development should be introduced in order to minimise encroachment onto the sensitive environment;

[Mr Eric K.S. Hui left the meeting temporarily and Ms Janice W.M. Lai returned to join the meeting at this point.]

#### History of Country Parks and CPEs

- (h) a preparatory study entitled “Conservation of Hong Kong Countryside” was conducted in 1966. In that study report, it was indicated that the existence of scattered villages was a problem that should be carefully considered in the initial planning of a country park system. It was indicated that it was not possible to put villages in a country park and expect them to remain static as they would grow and expand, requiring the construction of roads to serve the new population. There was little purpose in investing in a country park system which would



subsequently be destroyed incrementally;

- (i) round about 1977, in about three years time, 40% of the area in the territory were put under the CPO. Of the 2,500 ha of private land, 500 ha with no economic activities were incorporated into country parks. About 2,000 ha of private land with farming activities and a few houses were left in the CPEs. In the three OZP areas, there were only a few existing houses in the existing villages, namely Mui Tsz Lam, Kop Tong, Lai Chi Wo and Fung Hang;
- (j) private land in CPEs was mainly located at the Plover Cove Country Park and Sai Kung Country Park, which concerned the subject OZPs. Agricultural activities would be compatible with the surrounding country parks, but allowing Small Houses and villages to grow incrementally would create problems;
- (k) in The Ombudsman's report dated 2011, it was stated that in 1991, the Government started discussion at a policy level about protection of CPEs, but the Government failed to take forward the policy. After the Tai Long Sai Wan incident in 2010, the Government confirmed its policy to protect the CPEs. It was decided that of the 54 CPEs, AFCD would incorporate 25 small CPEs (accounting for about 10% of the total land area within CPEs) which primarily involved Government land and there was no pressure for Small House development into the country parks. The other CPEs were to be covered by statutory plans under the Ordinance. In this regard, PlanD had expeditiously exhibited many DPA Plans to impose planning controls on those CPEs that were under imminent development threats;
- (l) the Ordinance was not as effective to achieve nature conservation objectives as compared to CPO. In the Legislative Council Papers regarding the incorporation of the Tai Long Sai Wan enclave into the Sai Kung East Country Park in 2013, it was stated that PlanD or the Board would not allocate resources for habitat/amenity improvement.

Whereas under CPO, the Government would manage the sites as part of the country parks, improve the supporting facilities, patrol and undertake law enforcement. Aggrieved land owners might also seek compensation from the Government under the provisions of CPO;

The Board to Retain Planning Control

- (m) by zoning large areas of land as “V” under the OZPs, the Board had shifted the development control to the Lands Department (LandsD). LandsD’s present controls on Small House development were ineffective. Although Small House applications were circulated to relevant government departments for comments and villagers supposedly had to comply with the ProPECC PN, adverse sewerage and effluent impacts were prevalent in many existing villages. In some cases, the Government had to spend public money to retrofit sewerage systems in villages;
- (n) the Board should retain its control on developments within CPEs. The Alliance strongly objected to zoning agricultural land in country parks for Small House developments due to the environmental problems that would be created as evident in the existing villages;
- (o) given that Hoi Ha, Pak Lap and So Lo Pun were all surrounded by country parks, the Board should adopt the same kind of control as that for Tai Long Wan. According to the ES of the Tai Long Wan DPA/OZP, the planning intention was that there was a general presumption against development except for retaining the existing village areas. The Board did not create new or expanded “V” zones in Tai Long Wan, the same approach should be adopted for the subject OZPs. For the “V” zones designated on the three OZPs, it was estimated that the population in the Sai Kung East and West Country Parks would increase by about 5 times and that in Plover Cove Country Park would increase by about 20 times;

- (p) Designing Hong Kong Limited and the Alliance had raised questions about the cumulative impacts, carrying capacity of the country park, and whether impact assessments were prepared regarding the environmental, visual, sewerage, drainage and infrastructure impacts as well as traffic impacts and demand on transport facilities of the potential Small House developments on the country parks. AFCD indicated that they were not responsible for undertaking those impact assessments and did not possess the relevant information. The Board should not allow incremental growth of village settlements in country parks knowing that cumulative impact assessments had not been undertaken and there was no information available about the cumulative impacts;
- (q) neither the Transport Department nor Highways Department had raised any concerns on the proposed “V” zones from a traffic and transport infrastructure point of view as there were no roads, public ferries/kaito services nor access to public roads. However, the villagers would build unauthorised roads in a haphazard manner to provide access to their own village houses or they would park their cars illegally on public roads. In addition, AFCD would issue permits (up to six permits per house) for vehicular access on roads in CPEs. If the population was allowed to grow in the CPEs, there would be pressure for building new roads in country parks, an example was the ‘Pak Lap Road’;
- (r) our country parks had beautiful landscape and provided extensive recreational grounds and they should be protected. The proposal from the Alliance was to follow the case of Tai Long Wan. In particular, ‘New Territories Exempted Houses (NTEH)’ should be changed to a Column 2 use and ‘House (other than ‘NTEH’)’ should be deleted from the user schedule of the “V” zone; “V” zones should be reduced to cover only the existing village settlements and approved Small House applications; “CA” instead of “Green Belt (1)” (“GB(1)”) zonings should be used to maintain control over incompatible development and

eco-vandalism; any demolition, addition, alteration and/or modification to an existing building should require planning permission. The Board was urged to make a decision on the three OZPs to protect Hoi Ha, Pak Lap and So Lo Pun.

[Actual speaking time of R799: 29 minutes]

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

[The meeting took a five-minute break at this point.]

HH-R10874, SLP-R10820, PL-R10738 – WWF-Hong Kong

12. With the aid of a Powerpoint presentation, Dr Michael W.N. Lau made the following main points:

- (a) he was the Senior Programme Head of WWF-Hong Kong responsible for local biodiversity and regional wetlands; member of the Steering Committee for the Biodiversity Strategy and Action Plan; member of Terrestrial Biodiversity Working Group; member of Awareness, Mainstreaming and Sustainability Working Group; Co-leader of Status and Trend and Red List Focus Group; member of International Union for Conservation of Nature Species Survival Commission - Tortoise and Freshwater Turtle Specialist Group Steering Committee and Red List Authority; member of Amphibian Specialist Group and Red List Authority;
- (b) Hong Kong lied in the Indo-Burma Hotspot, which was one of the 25 biodiversity hotspots in the World. Hong Kong was also a key bio-diversity area within the Hotspot, which was of high conservation priority;

Ecological Value of CPEs

- (c) the country park system was crucial to sustaining rich bio-diversity. The country parks covered some 40% of the land area in Hong Kong and covered much of the secondary forests, shrubland, grassland and associated hill streams;
- (d) nevertheless, there were many gaps in the country park system. Country parks mostly covered hilly areas for protection of watershed to ensure reliability of water supplies. Private land in existing villages and associated farmland were excluded from country parks due to local objections at that time. As such, as revealed by a research conducted by the University of Hong Kong (2004), many ecologically important areas such as freshwater wetlands, abandoned agriculture and feng shui woods in the lowland had been excluded from country parks;
- (e) most lowland habitats, such as Lam Tsuen Valley and Yuen Long and Kam Tin Valleys, had been developed. The marshes and lowland streams remaining in the CPEs were of high ecological value. Important lowland habitats were rare in Hong Kong, for example, based on AFCD's data of a study conducted in 2008, freshwater/brackish wetland, natural watercourse and seagrass bed only accounted for 0.44%, 0.52% and 0.01% of the total area of high value ecological habitats in the territory;
- (f) the boundaries of country parks and CPEs were hardly discernible and they were ecologically linked. The CPEs complemented conservation and landscape values of country parks. Many wildlife depended on habitats both within country parks and CPEs, for example, the Crab-eating Mongoose *Herpestes urva* that lived in the forest fed on the crabs in the streams;
- (g) fresh water marsh had unique wildlife community supporting many threatened species under-represented in the country park systems. For example, the Hong Kong Paradise Fish *Macropodus*

*hongkongensis* that was only found in Hong Kong and coastal South China and the Bog Orchid *Liparis ferruginea* that was locally endangered;

- (h) low gradient streams with a sandy substrate were also ecologically important. They were breeding grounds of several uncommon dragonflies such as the Spangled Shadow-emerald *Macromidia ellenae* that was only found in Hong Kong and Guangdong. They were also important habitats for amphibians such as the Hong Kong Newt *Paramesotriton hongkongensis* that was only found in Hong Kong and coastal Guangdong;
- (i) CPEs also had natural streams that had uninterrupted flow into the sea, this was important for diadromous species such as the Neo Goby *Stiphodon atropurpureus* that was locally endangered and Brown Fish Owl *Ketupa flavipes* that was locally scarce;

CPEs being destroyed and threatened

- (j) according to WWF-Hong Kong's 'Country Park Enclaves Investigation Report', 12 out of the 77 CPEs had suffered from large-scale destruction and 10 of those areas in CPEs were related to private developers' interests. So Lo Pun and Pak Lap were also CPEs that had been seriously damaged;
- (k) after the Tai Long Sai Wan incident in 2010, the Government had committed to protecting CPEs either through incorporating them into country parks or putting them under statutory planning control. Nevertheless, since 2010, four additional CPEs had been damaged. They were the CPEs at Pak Sha O, Wong Chuk Yeung, Lo Shue Tin and Yi O. Although Yi O was covered by a DPA plan shortly after damage occurred, the vegetation on private land had already been cleared;

- (l) Lo Shue Tin was the most recent CPE being damaged. A private development company bought a number of private lots in Lo Shue Tin between 2010 to 2013. In 2013, about 2.3 ha of land was cleared, damaging mature and secondary forests, freshwater marshes and a section of a stream. From aerial photos, it was clear that the damaged area covered land owned by the private development company. So far, only LandsD had taken action to block the access to the illegal track routing through government land. No enforcement action could be undertaken by PlanD as there was no restriction on vegetation clearance in “Agriculture” (“AGR”) zone;
- (m) more restrictive planning controls, such as “CA” zones, were needed to protect ecologically important habitats, it would remove expectation for development and would reduce the chances of eco-vandalism. The precedent of the Tai Long Wan OZP should be followed. CPEs of high conservation value should be incorporated into country parks in the longer term. The Board should not zone recently-damaged land as “V” to reward eco-vandalism, or else it would encourage more destructions in other CPEs; and
- (n) the Convention on Biological Diversity was extended to Hong Kong in 2011, and the Government was formulating the Biodiversity Strategy and Action Plan. As such, the Government had a responsibility to protect ecologically important CPEs.

[Actual speaking time of HH-R10874, SLP-R10820, PL-R10738: 21 minutes]

HH-R10883, SLP-R10821 and PL-R10739 – KFBG

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

- (a) he had worked as an ecologist as a private consultant and in AFCD.

He was currently the Senior Ecologist of KFBG. He was a member of the focus groups for formulation of the Biodiversity Strategy and Action Plan and also provided advice on ecologically important streams (EISs);

- (b) the zoning adopted for Tai Long Wan was a good precedent. Tai Long Wan was completely surrounded by the Sai Kung East Country Park. In the original OZP gazetted in April 2000, 7.9 ha (about 16%) of land in the planning scheme area was zoned “V”. It was estimated that the “V” zones would accommodate 370 Small Houses and a population of 1,000. The entire stream course running through the planning scheme area and its riparian areas were zoned “CA”, despite that only the southern section of the stream was later identified as an EIS. The forest areas were all zoned “CA” rather than “GB(1)”;
- (c) there were five objections received on the Tai Long Wan OZP objecting to the large size of the “V” zones. One of the objectors indicated that it was a fallacy to think that “V” and “CA” zones could co-exist. The development of village houses would result in more population and demand for additional transportation and infrastructural facilities that would cause destruction to the natural environment;
- (d) after hearing the objections, the Board was of the view that more in-depth research should be carried out by relevant government departments so as to provide more information to the Board to substantiate whether Tai Long Wan was worthy of conservation;
- (e) at the time, AFCD commented that the flora and fauna found in the Area as identified by the objectors were only ‘rare’ and not ‘very rare’ species, and as such, it might not be justified to rezone areas zoned “V” to “CA”. AFCD also considered that the “Site of Special Scientific Interest” (“SSSI”) for the Tai Long Bay SSSI and



the “CA” zonings for the area north of Ham Tin had already provided the necessary protection for the more important areas in Tai Long Wan;

- (f) on the other hand, there were active public actions urging for protection of Tai Long Wan. During November/December 2000, more than 2,000 signatures were collected in support of preserving Tai Long Wan. Moreover, over 900 persons participated in an event organised by the Conservancy Association and the Friends of Tai Long Wan which was aimed to arouse public awareness for protection of Tai Long Wan;
- (g) PlanD set out three rezoning options for the Board’s further consideration of the objections. Option 1 was to keep the 7.9 ha “V” zone but it was pointed out that this option would not be in line with public expectation. Option 2 was to reduce the “V” zone from 7.9 ha to 1.9 ha to cover only the existing village settlements and approved Small House developments. Option 3 was to incorporate Tai Long Wan into the country park, which however was not within the purview of the Board;
- (h) PlanD recommended Option 2 for the reasons that it would minimise the potential threats to the existing landscape and heritage value of Tai Long Wan. It was also indicated that given the inadequate infrastructural provision and the difficulty to provide additional infrastructure in the Area, reduction in the area of the “V” zones would be more pragmatic and would help avoid unnecessary development expectations;
- (i) after considering the above recommendations, the Board decided to propose the following amendments to the Tai Long Wan OZP:
  - (i) adopting Option 2 to reduce the “V” zone to cover only the existing village settlements and approved Small House

developments (with an estimated population of 200). The Board also considered that land outside Tai Long Wan might need to be identified to satisfy any future Small House demand. As such, the Board had taken the view that it did not have an obligation to ensure that the Small House demand of a village would be completely satisfied within the existing village area;

- (ii) deleting “House (other than NTEH)” from Column 2 of the user schedule of the Notes for the “V” zone;
  - (iii) adding a new paragraph to the Remarks of the Notes for the “V” zone to require planning permission for any demolition, addition, alteration and/or modification to an existing building. Similar provisions were adopted in Pak Sha O; and
  - (iv) transferring “NTEH” from Column 1 to Column 2 of the user schedule of the Notes for the “V” zone so that NTEH developments also required planning permission. This particular amendment was a decision made by the Board at its meeting and was not part of PlanD’s original recommendation;
- (j) the Board also remarked that despite some of the individual sites might not be the prime area for conservation, a holistic approach should be adopted to conserve the natural beauty of Tai Long Wan as a whole. Apart from the Tai Long Wan SSSI, the surrounding country parks were of equally important conservation value;
- (k) further objections were raised by land owners and development company against the Board’s proposed rezoning as highlighted above. However, the Board decided not to uphold all the further objections;

- (l) it was clear that the planning intention for Tai Long Wan was to protect its natural environment, and that it should be protected from encroachment by development of incompatible uses and there was a general presumption against development except retaining the existing village areas;
- (m) after the aforementioned amendments to the OZP, there had not been any Small House applications nor planning applications for Small House developments; and
- (n) the OZP restrictions had not ‘extinguished’ the village as some objectors had claimed. In fact, villagers living in Tai Long Wan were still thriving and making a living from holiday hikers and visitors. The public could still enjoy the spectacular natural features in Tai Long Wan and the natural environment was conserved. As such, the Tai Long Wan precedent was a win-win solution for villagers, the public and nature.

[Actual speaking time of HH-R10883, SLP-R10821 and PL-R10739: 13 minutes]

R10587 – Ruy Barretto S.C.

14. In response to Mr Ruy Barretto’s query that his representation submission dated 27.11.2013 had been included in the attachments to the Paper, the Chairman said that a copy of all submissions (including Mr Barretto’s representation submission) had been passed to Members. Mr Barretto then made a presentation based on the tabled document entitled “Country Park Enclaves and their better protection as required by policy, using better statutory planning and eventual designation as country park” and made the following main points:

- (a) the Board’s duty was to follow the Government’s policy to protect the CPEs by appropriate zonings and to protect the CPEs until they were eventually designated as country parks. Better planning

control was needed and the proposed amendments to the three OZPs would be explained in more details later. However, the three published OZPs showed excessive “V” zones that were designated for expediency and to satisfy vested interests. Such zonings were contrary to evidence, principles and the law;

- (b) under section 3 of the Ordinance, the Board had a statutory duty to have regard to public interests as it had to plan for the benefit of the community and its health, safety and general welfare. The zoning of excessive “V” zones on the three OZPs appeared to be for the protection of private vested interests rather than the interests of the general public;
- (c) the Tai Long Wan precedent, as explained earlier, was a binding precedent for better planning, it was a pragmatic solution that curtailed development expectations. The former Chief Executive had announced the policy to protect CPEs and the Board had promulgated its policy in opposition to the ‘destroy first and build later’ approach. Nevertheless, the three OZPs seemed to follow the contrary principle of ‘destroy first, reward later’. That was a wrong principle and irrational;
- (d) the Small House application system was currently being abused and most of the Small Houses were eventually sold off to developers and were not for the villagers’ own use. Hence, extensive developer-owned landholdings within the expanded “V” zones would facilitate future fraud in the Small House application system;
- (e) the OZPs had failed to address the requirements of the CPE policy. It was wrong for the Board to merely state that designation of country parks was outside the purview of the Board and refrain from undertaking any planning controls that would affect the CPEs. There was public expectation for the Government to better protect the CPEs so that it would not undermine public enjoyment of the

natural environment. Such public expectation was evident from the 10,000 objections against the three OZPs;

- (f) the CPE policy was upheld by law. In the Tai Long Sai Wan court case in 2013, the High Court ruled that public interest in and expectation for conservation of the countryside were lawful reasons for designating Tai Long Sai Wan as country park. Public expectation for better conservation of country park and CPEs should take precedence over the alleged development rights or vested interests;
- (g) the background of the So Lo Pun case was highlighted in the tabled documents. While the April 2013 Planning Report stated that a comprehensive planning framework was needed to conserve So Lo Pun's outstanding natural landscape and ecological value, the So Lo Pun OZP subsequently published showed none of those planning objectives. There were massive areas zoned "GB" on which Small Houses might be permitted. The "V" zones had been expanded to accommodate 134 houses for 1,000 people. The doubling of Small House demand, to allow a sudden jump from the baseline of zero population to 1,000 population, was based on claimed demand and not genuinely verified needs. The baseline should be the existing village settlement with zero population;
- (h) the Government claimed that an incremental approach to development should be adopted but cumulative impacts were not addressed. It was also claimed that development impacts would be addressed by existing mechanisms. However, those so-called existing mechanisms either did not exist, were inadequate or were compromised due to lack of enforcement. If "V" zones were allowed in these CPEs, it would cause destruction in the heart of the country parks;
- (i) it was a known fact that runoff from septic tanks polluted stream

courses. The septic tank issue had been the subject of legal challenge, but EPD had not been able to address the legal arguments they put forward. Instead, EPD continued to indicate that they would rely on ProPECC PN and no action was taken to enforce the Water Pollution Control Ordinance and its Technical Memorandum;

- (j) soil percolation tests, that were previously not enforced by the authorities, were now being stated as a requirement for Small House developments in Hoi Ha. However, it was unrealistic to assume that such percolation tests would be sufficient to help with the problems of septic tanks and their cumulative impacts;
- (k) the So Lo Pun stream was hydrologically and ecologically connected and it was illogical only to protect the lower section of the stream. The Board should ensure that the entire stream would be protected based on the precautionary principle and ecosystem approach;
- (l) proposed amendments to the three OZPs were tabled and would be explained in more detail in the later presentations. In gist, the common principles in their proposed amendments were to zone the forest and wetland areas as “CA”, the existing village areas as “V” and the damaged areas near the villages as “GB(1)”. These rezoning proposals were based on the successful precedents in Tai Long Wan and Pak Sha O and would provide better protection for the CPEs.

[Actual speaking time of R10587: 22 minutes]

[Professor C.M. Hui left the meeting temporarily at this point.]

R10543 – Chan Ka Lok

15. Mr Chan Ka Lok made the following main points:

- (a) there had been several discussions about CPE policy in Legislative Council and the general consensus was that CPEs should be incorporated into country parks. While some indigenous villagers might claim that incorporation of CPEs into country park would affect their private property rights and contravene the Basic Law, the Government had reiterated that there were existing mechanisms to address the concerns about impact on property rights. The Alliance considered that all CPEs should be incorporated into country parks to provide better protection for the natural ecology;
- (b) there were reservation and doubts on Small House demand data which PlanD adopted in drawing up “V” zones. There was projected increase in population in all three OZP areas, at So Lo Pun from zero to 1,000; at Hoi Ha from 110 to 590; at Pak Lap from zero in 2006, less than 50 at present and 230 in future;
- (c) in paragraph 5.25 of the TPB Paper for the Hoi Ha OZP, it was stated that there was no mechanism at the planning stage to verify the authority of the Small House demand figures. Those figures were provided by the village representatives with no objective basis. It was a negotiated ‘deal’ and a political decision made between the Government and the villagers;
- (d) “V” zones should not be drawn up based on ‘unverifiable’ data. For example, in So Lo Pun, there was currently no Small House application. Future Small House developments should be considered on a case-by-case basis. The Board should be well aware of the commercial interests behind Small House developments and the vested interests of property developers;
- (e) from his personal experience living in a village area in Tai Po, there was clear abuse of the existing Small House application system. It was common to see land being destroyed first before applications for Small House were made. No particular government department

could take effective enforcement actions against such irregular activities. As such, the Board should not rely on unverifiable and not trustworthy data to designate massive area of land as “V”;

- (f) an example was a planning application for an organic farm in Pak Shui Wun, Sai Kung that was approved by the Board on review. However, the organic farm turned out to be run on a commercial basis and a private pier was built so that people could access from Sai Kung. The Board should base its decision on trustworthy evidence, or else there would be abuses like this case that would cause unforeseen damages; and
- (g) the Board should ensure that CPEs were well protected, otherwise, the destruction caused would be irreversible. Wrong decisions made by the Board might destroy the corals in Hoi Ha and the natural environment in So Lo Pun and Pak Lap. In general, areas with ecological value should be zoned “CA” to provide for the best available protection; the “V” zone should only be confined to the existing village settlements and future Small House applications should be assessed on a case-by-case basis. The Board was urged to make the right decisions that would protect the public interests in conservation of the country parks and CPEs.

[Actual speaking time of R10543: 15 minutes]

HH-R10902, SLP-R10825, PL-R10747 – Wu Chi Wai

16. Mr Wu Chi Wai made the following main points:

- (a) the objective of the Small House policy was to provide a place for villagers to live in. However, in the case of Pak Lap, all private land within the village had already been sold to a single developer. That meant that the villagers had willingly given up their right to build a house for their own use. In such case, if the Board still



zoned massive areas of land as “V”, it would only benefit the developer and would legitimise the illegal transfer/sale of the rights to build Small Houses (套丁);

- (b) for the case of So Lo Pun, the existing population was zero. There were also more than 50 existing village houses. Under the existing mechanisms, villagers with genuine need could apply to rehabilitate/redevelop/rebuild those houses for their own living. However, there was no such application from villagers. As such, there was no basis to zone some 4.5 ha of additional land as “V”. The case of Hoi Ha was similar in that villagers had already sold their private land to developers in 2010;
- (c) some villagers had claimed that their rights were being deprived. However, private land owned by villagers was originally for agricultural use. “V” zones should only be drawn up to satisfy the genuine need of villagers for a place to live in and not to satisfy their demand for commercial transactions of rights to build Small Houses; and
- (d) there was objection to the three OZPs. The existing mechanisms already allowed rebuilding of the 50 odd existing village houses and there was no need to zone additional land as “V”.

[Actual speaking time of HH-10902, SLP-R10825, PL-R10747: 10 minutes]

[Ms Anita W.T. Ma left the meeting temporarily at this point.]

R1980 – Martin Williams

17. With the aid of a Powerpoint presentation and some video clips, Mr Martin Williams made the following main points:

- (a) the issue at stake was about developers’ interest rather than interests

of indigenous villagers;

- (b) Hoi Ha was a place with beautiful natural scenery. There were lots of corals in the marine park, even in places very close to the footpaths. Hoi Ha should be designated as a country park and protected for the future generation;
- (c) according to AFCD, the area designated for village house development was agricultural land. However, from the video clips, it was evident that the area was scenic secondary forest with lots of trees including old banyan trees. The marsh land thereat was also rich in wild life species. This area should be zoned “CA”, and farming should not be allowed as land with agricultural activities might attract vested interest to destroy the land and build later;
- (d) the area designated for Small House development was also too close to the coastline. The natural coastline had moved inland and areas previously shown as farmland on survey maps was now covered by water during high tides. That meant that houses built even with a 30m setback from the previous recorded coastline would be right next to the current coastline;
- (e) a natural stream course in the area was also not recorded on the map. Any pollution to this stream course would destroy the corals in Hoi Ha, that was one of the most important coral areas in Asia;
- (f) for Pak Sha O, the indigenous villagers had left and much of the private land was bought by a developer, who was the owner of Xin Hua Bookstore. Any development thereat would be for the developers’ interests and not for indigenous villagers;
- (g) protecting and allowing access to the countryside was very important for the health and well being of people, and this was supported by research. It was particularly important as a space for relief in the

busy living environment in Hong Kong. In fact, more and more Hong Kong people were visiting the country parks during weekends;

- (h) there were examples of well preserved villages in Cape Town. The heritage and natural landscape were both preserved and the villages were thriving. It was a pity that there was no strategic planning for the countryside in Hong Kong and the Board might need to take up its role in this regard. Existing villages should be preserved and allowed to thrive in its natural setting. Developers should not be allowed to build large-scale housing developments in CPEs. There was an example of such large scale housing development on Cheung Chau that had remained largely unoccupied after completion;

[Actual speaking time of R1980: 10 minutes]

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

R6591 – Ida B.S. Lee

18. Ms Ida B.S. Lee made the following main points:

- (a) she spent most weekends in the country parks. The extensive country parks that were close to the city centre was a precious asset of Hong Kong that should be preserved. The three OZP areas were all close to the country parks and were ecologically sensitive areas. While the housing need of local villagers should be respected, it was necessary to balance it with the need to conserve the natural environment in country parks;
- (b) Hong Kong's countryside was an important recreational resource for people of Hong Kong as well as overseas visitors engaging in hiking or marathon activities. The country parks should be protected and this matter involved major public interests;

- (c) the three OZP areas were currently very inaccessible - So Lo Pun was accessible on foot; Pak Lap was accessible on foot from Sai Kung Man Yee Road; and Hoi Ha was accessible via Hoi Ha Road with restricted access. If development was to be permitted within these three OZPs areas, it was necessary to consider how road infrastructure and other transport facilities could be provided to satisfy the demand of future residents; and
- (d) there were doubts on the projected demand for Small Houses. In the past ten years, she had not seen any new houses or people residing in So Lo Pun. It was hard to understand why there was a forecast demand of 200 odd houses in the next ten years. The Board should carefully consider whether those figures were trustworthy before designating more land for village house developments.

[Actual speaking time of R6591: 5 minutes]

[Ms Bernadette H.H. Linn and Mr Sunny L.K. Ho left the meeting temporarily and Ms Anita W.T. Ma returned to join the meeting at this point.]

R6401 – Lai Yin Mei

19. Mr Jan K.C. Chan made the following main points:
- (a) he visited the country parks and marine parks on a regular basis. Individual indigenous villagers could be allowed to build houses if they had real housing need. However, it was a known fact that most private land covered by the OZPs had been bought by private developers for large-scale developments;
  - (b) the countryside was a precious asset of Hong Kong, as it covered extensive areas and was close to the urban areas. More and more

people were visiting country parks for recreation purpose. Since 2003, the Government had promoted local tours featuring natural and heritage assets in Hong Kong. The Hong Kong Tourism Board had also promoted Hong Kong's great outdoor space to overseas visitors. The natural beauty of our country parks had been featured in overseas media and was appreciated by local and overseas visitors; and

- (c) before the Board made a decision to zone more land for village type developments, whether private interests or public interests of Hong Kong residents should prevail should be a consideration.

[Actual speaking time of R6401: 6 minutes]

20. As all the speakers for the morning session had completed their presentations, the Chairman thanked the group for arranging the programme which had facilitated the meeting process.

21. The meeting was adjourned for lunch break at 12:30 p.m.

22. The meeting was resumed at 2:10 p.m. on 8.5.2014.

23. The following Members and the Secretary were present at the resumed meeting:

Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Mr Roger K.H. Luk

Dr W.K. Yau

Professor K.C. Chau

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Dominic K.K. Lam

Mr H. F. Leung

Mr Francis T.K. Ip

Deputy Director of Environmental Protection

Mr. C.W. Tse

Director of Lands/ Deputy Director of Lands (General)

Ms Bernadette H.H. Linn/ Mr Jeff Y.T. Lam

Director of Planning

Mr K.K. Ling

Presentation and Question Session

[Open meeting]

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

- Mr C.K. Soh - District Planning Officer/Shau Tin, Tai Po and North, Planning Department (DPO/STN, PlanD)
- Mr David Y.M. Ng - Senior Town Planner/country Park Enclaves (STP/CPE), PlanD
- Mr Ivan M.K. Chung - District Planning Officer/Sai Kung and Islands (DPO/SKIs), PlanD
- Ms Lisa Y.M. Chau - Town Planner/Sai Kung (TP/SK), PlanD
- Mr Cary O.H. Ho - Senior Nature Conservation Officer (South), Agriculture, Fisheries and Conservation Department (SNC/S, AFCD)
- Mr K.W. Cheung - Senior Nature Conservation Officer (North) (SNC/N), AFCD
- Mr Alan L.K. Chan - Senior Marine Parks Officer (SMP), AFCD
- Mr K.S. Cheung - Country Parks Officer (Special Duty) (CPO(SD)), AFCD

R10909 – Kevin Laurie

HH-R10895, SLP-R10827 & PL-10745 – Sea Shepherd Conservation Society

Mr Kevin Laurie - Representor and Representor's representative

HH-R10883, SLP-R10821 & PL-R10739 - Kadoorie Farm & Botanic Garden (KFBG)

*(Please refer to Appendix A for a list of representers who had authorised KFBG as their representatives)*

Mr Tony Nip	]	
Mr Chiu Sein Tuck	]	
Ms Woo Ming Chuan	]	Representers' representatives
Mr Gary Ades	]	
Mr Andy Brown	]	

R2474 - John Wright

R10544 - Friends of Sai Kung

Mr John Wright	-	Representer	and	Representer's representative
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SLP- R10823 - Eco-Education & Resources Centre

R6138 –Verity B Picken

PL-R10740 – Green Peace

Ms Michelle Cheung	-	Representers' representative
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HH- R10882, SLP-10819, PL-10743 - The Hong Kong Bird Watching Society

Ms Jocelyn Ho	-	Representer's representative
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R1990 – Denis Leung

Mr Yeung Man Yau	-	Representer's representative
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HH-R10755, SLP-R10822, PL-10741 - The Conservancy Association

Mr Roy Ng	-	Representer's representative
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R799- Designing Hong Kong Limited

Mr Paul Zimmerman	]	Representer's representatives
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Ms Debby Chan Ka Lam ]

HH-R10874, SLP-10822, PL-10741 – WWF - Hong Kong

*(Please refer to Appendix A for a list of representers who had authorised WWF-Hong Kong as their representatives)*

Mr Michael Lau ]

Mr Lau Wai Neng ] Representers' representatives

Mr Andrew Chan ]

Mr Tobi Lau ]

R10587 – Ruy Barretto

Mr Ruy Barretto - Representer

25. The Chairman extended a welcome and then invited the representers and their representatives to elaborate on the representations.

R10909 – Kevin Laurie

HH-R10895, SLP-R10827 & PL-10745 – Sea Shepherd Conservation Society

26. With the aid of a Powerpoint presentation, Mr Kevin Laurie made the following main points:

- (a) he was trained as a geologist and had worked as an archaeologist. He had also been a police officer for 30 years in Hong Kong and was now retired. He was currently a scientific consultant in the National Dinosaur Museum in Australia and an independent marine ecologist focusing on Horseshoe Crabs in Hong Kong and Southeast Asia. He was also a member of Hong Kong Biodiversity Strategy and Action Plan (BSAP) Marine Biodiversity Working Group providing advice on human impacts on the marine environment;

*Geological constraints*

- (b) there were geological constraints on village house development in Hoi Ha, Pak Lap and So Lo Pun. The Board should not approve the “Village Type Development” (“V”) zones on these three Outline Zoning Plans (OZPs) in view of the geological setting of these areas, which were located on floodplains in the lower regions of the river valleys underlain by alluvium and were susceptible to groundwater flooding;
- (c) alluvium was loose, well-sorted to semi-sorted gravel, sand, silt and clay. It was formed by materials eroded from the hills, transported down by a river and deposited in the river bed. It mostly occurred in the lower reaches of river valleys. As alluvium was permeable, water flowed freely through it and also moved up and down and sideways through it. Water levels in alluvium could rise or fall because of the groundwater level, the rates of precipitation and influences of sea level. As such, river valleys with alluvium were susceptible to flooding and became floodplains;
- (d) geological survey maps could assist planners and engineers in identifying geological hazards of an area and was a cost-effective way to manage risk. It showed surface distribution of rocks and was a primary source of information for land use planning. Failure to use geological maps or understand the geology of an area could lead to a variety of adverse land-use impacts e.g. ground-water contamination;
- (e) the Hong Kong Geological Survey produced by the Government could help planners and the Board to make informed decisions. The geological maps showed the surface occurrence of a deposit (including its age and type) and the schematic section of the deposits. Based on the geological survey maps, the proposed “V” zones laid directly above a mixture of alluvium, beach deposits and debris flow deposits for Hoi Ha OZP; a mixture of alluvium and beach deposits for Pak Lap OZP; and a mixture of terraced alluvium, debris flow deposits and estuarine and intertidal deposits for So Lo Pun OZP. Because of alluvium, floodplains were susceptible to groundwater flooding;

- (f) according to the Environmental Protection Department's (EPD's) "Guidance Notes on Discharges from Village Houses", septic tank and soakaway (STS) system consisted of a septic tank, a soakaway system and surrounding soil into which wastewater was finally disposed of. Soakaway system involved dispersing untreated wastewater into the surrounding soil and relying on the soil to remove polluting material. Adequate purification could only be achieved after the wastewater had travelled a fairly long distance through the ground before reaching the sea. However, in the three OZP areas, wastewater flowed freely and rapidly through alluvium and could not get adequate purification before they reached the sea;
- (g) the said EPD's Guidance Notes also stated that a STS system was not feasible in areas prone to flooding during storms or with high groundwater table. Hoi Ha, Pak Lap and So Lo Pun were areas prone to flooding. According to the Drainage Services Department (DSD) Annual Report 2001/2002, Hong Kong could experience very severe rainstorms at times and significant flooding occurred in the New Territories. Flooding could happen in the natural floodplains and low-lying areas of the northern part of the New Territories, i.e. where Hoi Ha, Pak Lap and So Lo Pun were located. There was evidence of flooding in these three areas and high water tables could be seen from the photos. If a STS system was put in an area with a high groundwater table or prone to flooding, it would lead to overflow of septic materials to the adjacent areas;

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

*Threats to biodiversity*

- (h) when Hoi Ha was designated as a Site of Special Scientific Interest (SSSI), the threats from development, i.e. pollution and sedimentation were recognized and it was considered that future development and

changes of land uses in Wanchai Borrow Area might cause water pollution and sedimentation of Hoi Ha Wan. It was recommended at that time that AFCD should be consulted on any development of reclamation proposals which might affect the site. However, AFCD had not commented on the development threats in Hoi Ha;

- (i) a STS system could produce contaminants including water-borne pathogens which affected human health; nitrogen and phosphorous which caused nutrient enrichment; toxic chemicals which killed wildlife; and endocrine disruptors which caused major alterations to sexuality of fish;
- (j) land clearance for village house development in a floodplain area would turn an area of deposition to an area of erosion. Besides, runoff from construction sites would lead to suspended sediments running into streams and rivers and even to the sea during heavy rainstorm. It was globally recognized as a major problem. For example, a coral community on the eastern shore of Hoi Ha Wan had been lost because of soil and sand run-off from the surrounding hills from which trees and rocks were removed for land reclamation in Ma On Shan;
- (k) the proposed developments in Hoi Ha, Pak Lap and So Lo Pun were located in floodplains. The whole river valley was a single system in which surface water, groundwater and the river were connected. Development in the lower reaches of the river valley would convert the area from an area of deposition into an area of erosion and create sedimentation and pollution. Each OZP area was a part of a river valley system and should not be considered in isolation;
- (l) according to a Study on the Soft Shore in Hoi Ha Wan Marine Park commissioned by AFCD in 2006, there were high ecological value soft shore communities in Hoi Ha Wan. It was the top soft shore in Hong Kong in terms of biodiversity. However, the toxic chemicals and endocrine disruptors generated by the STS system would affect the soft

shore communities in that area. Hoi Ha Wan was also one of the “Crown Jewels” of Hong Kong’s biodiversity but sedimentation and nitrogen/phosphorous would threaten coral communities in Hoi Ha Wan;

- (m) amphioxus (*Branchiostoma belcheri*) was found in Pak Lap Wan. It was a living fossil and one of the National Key Protected Species in China. According to AFCD’s website and study, it was of unique and high conservation value. However, it would be adversely affected by sedimentation and endocrine disruptors from sewage and waste water. The latter would affect normal sex development in fish;
- (n) So Lo Pun was an ecologically important stream (EIS). However, sedimentation and nitrogen/phosphorous (key components of fertilizers) would change the ecological balance of the stream. For example, the seagrass beds in So Lo Pun was very susceptible to sedimentation, nitrogen/phosphorous and toxic chemicals;

[Mr H.W. Cheung arrived to join the meeting at this point.]

*Threats to human health*

- (o) according to a report by the United States Government, human health threats were imposed by putting STS systems in alluvium areas in that more than 400 people were infected with gastroenteritis related to contaminated groundwater in 1995; major outbreaks of gastroenteritis had been attributed to virus in numerous states; and high water tables or inappropriate geological settings could allow pathogenic bacteria and viruses to reach groundwater;
- (p) according to the microbiologist in Hong Kong, H7N9 bird flu might spread through human faeces. Besides, according to Science Daily in 2013, antibiotic-resistant bacteria were widespread in Hudson River, antibacterial products fuel resistant bacteria were found in streams and rivers and superbugs were found breeding in sewage plants;

[Dr W.K. Yau returned to join the meeting at this point.]

- (q) human activities, e.g. clam digging and school field trips, would no longer be safe in the downstream areas and beaches; and
- (r) to sum up, the Board had not been briefed about the geology, implication for wetland conditions, threats of sedimentation and pollution, important coral and soft shore communities at Hoi Ha, amphioxus being a species of conservation concern and the public health threats;
- (s) the main function of the Board under section 3 of the Town Planning Ordinance was to promote the health, safety, convenience and general welfare of the community. The Board had a duty to protect the health, safety and welfare of the community; and
- (t) the Board should look at the evidence and reject all the village house development proposals on the three OZPs which used STS systems in floodplains.

[Actual speaking time of R10909: 30 minutes]

HH-R10883, SLP-R10821 & PL-R10739 - Kadoorie Farm & Botanic Garden

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

- (a) two case studies in Lung Mei and Ma Wan New Village would be presented to demonstrate the fact that increase in number of Small Houses could have serious impact on the water quality of an area;

*Case Study No. 1 - Lung Mei*

- (b) according to the data collected by EPD between 2000 to 2013, the water

quality in Lung Mei beach (in terms of the amount of E. coli) became very poor when more and more Small Houses were built in Lung Mei since 1998, despite that the area was already equipped with public sewers and waste water facilities;

- (c) as shown by some site photos, eating places (which were always permitted on the ground floors of Small Houses) and the construction and operation of Small Houses generated waste waters and were discharged to the outlets at Lung Mei;
- (d) it was very difficult to enforce the Water Pollution Control Ordinance as it was always difficult to identify which house or eating place was responsible for the illegal discharge of waste water. Besides, illegal underground pipes were always covered by concrete;

*Case Study No. 2 – Ma Wan New Village, Tung Chung*

- (e) the Ma Wan New Village was built in 1998 due to Tung Chung New Town development. The concerned “V” zone was surrounded by woodland and next to a stream. The situation was similar to that of a country park enclave (CPE);
- (f) there were currently about 120 Small Houses in the village. Small Houses built in the early years (about 44) were connected to public sewer while the remaining ones were using STS system. There were three to four restaurants operating in the village;
- (g) according to the data from EPD, the level of E. coli and Faecal coliforms in the nearby stream in 2010-2013 were about 18,000 to 39,000 counts per 100ml and 54,000 to 120,000 counts per 100ml respectively. The level of ammonia was 1.4mg/L. The amount had far exceeded the Water Quality Objectives (WQO). The water quality was as poor as that of Tin Shui Wan Channel, Yuen Long Nullah and Tuen Mun River and worse than that of Shing Mun River. As shown in a chart, the

levels of pollution increased with the sharp increase in Small House developments from 1998 to 2011;

- (h) as shown in site photos, highly polluted water was discharged into the nearby stream from an outlet connected with U-channels running through Small Houses. Potential pollutants were also generated from domestic sewage and waste water discharged from the restaurants. Storm water outlets were often used to discharge waste water. High mortality of wild frogs was observed along the stream which demonstrated high water pollution;
- (i) Ma Wan New Village was built after EPD's Practice Notice for Professional Person (ProPECC) PN 5/93 was adopted. However, in reality, no one complied with the requirements and the rules were not enforceable. It was a planning problem, not just an environmental problem; and
- (j) according to PlanD's latest proposal, there would be 40 new Small Houses and 30 existing Small Houses in Hoi Ha, 79 new Small Houses in Pak Lap and 134 new Small Houses in So Lo Pun. The existing population in Hoi Ha and Pak Lap were 110 and less than 50 respectively. The expected population for Hoi Ha, Pak Lap and So Lo Pun would be 393, 230 and 1000 respectively. These future developments would have serious impact on the water quality of the areas.

[Actual speaking time of HH-R10883, SLP-R10821 & PL-R10739: 18 minutes]

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

R2474 - John Wright

R10544 - Friends of Sai Kung

28. With the aid of a Powerpoint presentation, Mr John Wright made the following



main points:

- (a) he had been living in Hong Kong for 31 years and was a practising barrister. He was the Chairman of the Friends of Sai Kung. His presentation would cover land issues and the legal aspect;
- (b) the “V” zones were areas within the village ‘environs’ (‘VE’) set aside for building of New Territories Exempted Houses (NTEH) (Small Houses) by eligible adult male indigenous villagers. The Small House Policy was introduced in 1972 to allow an indigenous villager to apply for permission to erect for himself during his lifetime a Small House on a suitable site within his own village;
- (c) an eligible adult male indigenous villager could apply to build on a private lot owned by himself. If he did not have private land, he could apply for a grant of Government land to build a Small House. Non-indigenous villagers and other parties, e.g. developers and development companies, were not allowed to apply to build Small Houses within “V” zones;
- (d) anyone could buy or sell private land within a “V” zone. In many CPEs, development companies had bought a large number of private lots from indigenous villagers. In Hoi Ha and Pak Lap, most of the private lots had been sold by indigenous villagers to developers. About 95% of private land within the “V” zone in Hoi Ha was currently owned by nine companies. Besides, the majority of private land within the “V” zone of Pak Lap was owned by one single company. However, these companies were not eligible to apply to build Small Houses;
- (e) development companies bought land within “V” zones so as to build Small Houses for sale or rent to outside and non-indigenous persons. Payment of the full purchase price of the land by the development companies to the indigenous villager was conditional upon building permission being granted;

- (f) a developer could build Small Houses in a “V” zone by making use of various legal devices which were illegal. The developer could execute a legal agreement assigning legal title in the land to an indigenous villager who applied for building permission. The villager could then sign a secret agreement assigning beneficial ownership of the land and the Small House to the developer, and could sign, inter alia, a trust document, a power of attorney and a Will in favour of the developer. In return, he could get cash payment, a house/flat or some other benefits from the developer;
  
- (g) the above legal devices were unlawful as the application was a deliberate misrepresentation to the Government that the Small House applicant was applying for permission to build a Small House for himself. That was supported by the judgments of various court cases. For example, in Civil Appeal Case No. 20 of 2001, there was a development scheme between a developer and an indigenous villager whereby (i) the developer provided the land and bore all construction and other costs of building a Small House; (ii) the villager applied to the Government for the grant of a free building licence to build the Small House; and (iii) the villager had no interest in the land or the house to be erected. The villager executed powers of attorney in favour of the developer as well as a Will appointing the developer as his sole executor to whom the land was bequeathed;
  
- (h) in the judgment of the above appeal case, the Court held that:
  - (i) the agreement was illegal. Its purpose was to misrepresent that the villager was the true owner in order to enable the developer to obtain the concessionary terms in the building licence available under the Small House Policy only for individual indigenous villager and not the developer;
  - (ii) the villager was presenting to the Government that he was the legal and beneficial owner of the land in respect of which the application for a grant under the Small House Policy was made. An indigenous

- villager who held the land as a mere nominee would normally be not qualified given the purpose of the Small House Policy;
- (iii) the Small Houses when erected would belong, not to the applicants, but to the owner or the developer. In other words, the applicants would not be the owners of the houses erected; and
  - (iv) the Deed was plainly unenforceable on public policy grounds because performance according to its term necessarily involved the swearing of false declarations and the making of misrepresentations to the Government;
- 
- (i) in So Lo Pun, there were over 200 private lots of land which were owned by members of the Wong clan. However, there was possibility that those indigenous villagers would enter into a development scheme with a developer to enable the developer to obtain the concessionary terms in the building licence available under the Small House Policy;
  - (j) indigenous villagers and developers who entered into illegal schemes might be subject to criminal offences under section 16A(1) of the Theft Ordinance (Cap.210); and
  - (k) illegal schemes were very common and widespread in villages in the New Territories and CPEs. The current rate for sale of a Small House right was about HK\$450,000. The parties who were involved in the illegal scheme would be criminally liable.

[Actual speaking time of R2474: 16 minutes]

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

HH-R10883, SLP-R10821 & PL-R10739 - Kadoorie Farm & Botanic Garden

29. With the aid of a Powerpoint presentation, Mr Tony Nip continued to make the following main points:

- (a) although PlanD stated that there was sufficient control in the draft OZPs as land within “V” zones would only be used for Small House development, this was not the case in reality as demonstrated by some case studies;

*Case Study No. 1 - Ting Kok*

- (b) between 1995 and 2006, a number of planning applications for Small House development were approved by the Board in Ting Kok within the “V” and “Green Belt” (“GB”) zones. For example, a proposed development of 37 Small Houses for indigenous villagers was approved by the Board on 7.4.2006 (Application No. A/NE-TK/204). However, those Small Houses turned out to be luxury houses and the selling price of each house was up to about HK\$14 million in 2013;

*Case Study No. 2 - Pak Heung*

- (c) a number of planning applications for vehicle parks in Pak Heung was approved by the Board in the “V” zone between 2001 and 2006. No planning application was required for Small House development within “V” zone. Again, Small House development in Pak Heung had turned out to be luxury houses. The price of each house was about HK\$10.5 million. Assuming a 30% down payment (HK\$3.15 million), the monthly mortgage would be about HK\$34,855 (for 25 years). However, the median monthly domestic household income in 2012 was only HK\$20,700. Those houses would not be affordable by the indigenous villagers and the general public;
- (d) the conversion of Small Houses to luxury houses by developers for profit-making purpose had deviated from the original intention of the Small House Policy which aimed to cater for the housing need of the indigenous villagers. There was a need to review the Small House Policy;

- (e) the proposed new Small Houses in Hoi Ha, Pak Lap and So Lo Pun of 40, 79 and 134 respectively were based on the Small House demand forecast provided by the VRs. They would generate possible monetary value of HK\$400 million, HK\$790 million and HK\$1,340 million respectively. However, the VR of So Lo Pun told the media that the future population of 1,000 for So Lo Pun was only a guesstimate;
- (f) in 2008, there was extensive tree felling in So Lo Pun village. The Chairman of the So Lo Pun Village Committee told the media that tree felling was to rehabilitate the village. It was not only to accommodate the need of the future generation of the indigenous villagers but also to exploit the development potential of the area. If land filling was approved by the Government, the area could be developed into 40 luxury houses similar to those in Discovery Bay. In a recent layout presented by the villagers, 188 houses were proposed which covered the whole valley of So Lo Pun;
- (g) the VR of Pak Lap also told the media that not all the 10-year Small House demand forecast would be materialised in future. Besides, the indigenous villagers would cooperate with developers for the development of Small Houses and it would be up to the indigenous villagers whether to sell the Small Houses to the developers. Although the Lands Department (LandsD) advised that any secret deal between the developers and the indigenous villagers on Small House development would be against the rules of Small House application, it would be difficult to verify;
- (h) in 2010, a Japanese developer planned to develop luxury houses in Hoi Ha. That incident demonstrated that it was very common for indigenous villagers to sell their Small House right to developers which was against the original intention of the Small House Policy;
- (i) the VR of Tung A village (another CPE) told the media that he had exaggerated the Small House demand forecast. As the Government

would never agree to the full amount of land demanded by the villagers, he could only bargain for more by asking for more. The number of Small House demand forecast was meaningless;

- (j) according to the media, the net profit of developing a Small House was over HK\$6 million. The Small House development had become a real estate investment rather than meeting the genuine need of the indigenous villagers; and
- (k) apart from conservation zonings, current zonings on the OZPs could not provide enough protection to the natural environment and habitats. The monetary incentive was so big that it would only encourage more and more destructions to the environment. Natural heritage and the public interest should not be exploited as a money spinner of the developers.

30. Mr Tony Nip and Ms Debby Chan then showed a 6-minute video extracted from two documentaries on Hoi Ha, Pak Lap and So Lo Pun which covered interviews with concerned VRs, ex-Assistant Director of Lands and Friends of Hoi Ha.

[The meeting was adjourned for a 5-minute break.]

[Mr Jeff Y.T. Lam left the meeting at this point.]

31. With the aid of a Powerpoint presentation, Mr Tony Nip continued to make the following main points on Hoi Ha:

- (a) the Hoi Ha area was encircled by the Sai Kung West (SKW) Country Park on three sides, with the remaining side fronting the scenic Hoi Ha Wan, which was a designated Marine Park and an SSSI. The area had high scenic and landscape value which complemented the natural landscape of the surrounding SKW Country Park and the Hoi Ha Wan Marine Park. The area was also of high ecological significance;
- (b) he strongly objected to the Hoi Ha OZP as the “V” zone covered dense

woodlands and streams, and was adjacent to wetlands and encroached upon the Marine Park;

- (c) all woodlands, wetland and seasonal streams should be protected and zoned as “Conservation Area” (“CA”). The “V” zone should be further away from the wetlands. Both the wetland and the streams were hydrologically and ecologically connected with the Marine Park. A rare wetland plant species (*Geissapis cristata*) was found in the wetland;
- (d) taking into account the representations, PlanD proposed to rezone the original “GB” zone and part of the “V” zone into “GB(1)”; and to rezone part of the original “CA” to “GB” (the new “GB” zone). However, there were problems for both rezoning proposals;
- (e) first, “GB(1)” was very different from “CA” in terms of conservation protection. Under the Environmental Impact Assessment Ordinance (EIAO), river training and miscellaneous projects within and close to “CA” would require Environmental Impact Assessment (EIA) but it was not required under “GB” or “GB(1)” zones. Under the Notes of the OZP, ‘Agriculture Use’ was under Column 1 of the “GB(1)” zone whereas ‘Agriculture Use (other than Plant Nursery)’ was under Column 1 of a “CA” zone, i.e. plant nursery was not permitted in “CA” zone. Besides, ‘Holiday Camp’ was under Column 2 of the “GB(1)” zone but not under a “CA” zone. As shown by some photos of a CPE at Uk Tau, Sai Kung, an extensive area was cleared for a so-called ‘plant nursery’ with only a few trees planted at the site. Similarly, massive construction was carried out for an approved holiday camp site within a “Coastal Protection Area” (“CPA”);
- (f) second, the new “GB” zone, which was originally zoned “CA”, encroached upon the fung shui woodland recognised by AFCD. According to PlanD, there was provision for planning application for Small House development in the new “GB” zone. PlanD, in consultation with AFCD, considered that the land was relatively flat and

mainly covered by small trees, shrubs and grass and hence the “GB” zone was to reflect the current landscape character. However, as shown by the contour map and site photos, the new “GB” zone was actually located at a sloping area covered by woodlands and with a stream passing through. All along, AFCD and the green groups considered that the area was a undisturbed fung shui woodland in which rare ecological and plant species were found. It was unreasonable that part of the “CA” zone was proposed to be rezoned for “GB”;

- (g) third, the reduced “V” zone was still too big and would have adverse impact on the Hoi Ha Wan Marine Park. Hoi Ha Wan was an enclosed bay located within another enclosed bay, i.e. Mirs Bay. The water current would not be strong enough to wash out waste water discharged from the Small Houses. According to the data collected from EPD, the water quality in similar enclosed bays in Pui O and Silvermine Bay was fair to poor with polluted waste water generated by Small Houses;
- (h) Hoi Ha Wan was a Marine Park and within the Secondary Recreation Contact Zone. It was also a very popular bathing beach, though not a gazetted beach. However, the amount of E.coli measured at various points near Hoi Ha Wan had already exceeded the WQO standard for gazetted beaches. As shown by the site photos, existing bathing facilities for recreational activities, operation of eating places and car washing activities in the village all generated waste water and pollution to the nearby stream and the sea;
- (i) as shown by the case study of Ma Wan New Village in Tung Chung earlier, the water quality in the nearby streams became very poor with the increase in Small House development. The same situation would occur in Hoi Ha Wan in future. As recorded in the TPB minutes for Draft Tin Fu Tsai OZP, the Deputy Director of Environmental Protection stated that septic tanks could not filter all E.coli. Hence, with 40 new Small Houses (in addition to the existing 30 Small Houses) in Hoi Ha, there would be 40 more septic tanks and the amount of E.coli would



definitely increase in Hoi Ha Wan Marine Park and affect the coral-rich area;

- (j) the new Small Houses would also generate demand for more parking spaces. Illegal parking might encroach upon the Government land in “CPA” and “GB(1)” zone affecting the natural environment;
- (k) the Hoi Ha OZP should follow the holistic approach of the Tai Long Wan enclave, i.e. to cover areas of conservation and buffering value with “CA” zone; to reduce “V” zone to cover only the existing village settlements; to move ‘NTEH’ from Column 1 to Column 2 in the user schedule of “V” zones; to delete “House (other than NTEH)” from the user schedule of the “V” zones; and to require planning permission for any demolition, addition, alteration and/or modification to NTEH;
- (l) the Board should better protect the CPE at Hoi Ha. The sudden increase in Small Houses from 40 to 70 was not an incremental approach. It was proposed that:
  - (i) the “V” zone should only confine to the existing village settlements or approved Small House sites;
  - (ii) the original “GB” zone and the majority of the proposed “GB(1)” zone covering the freshwater wetland and the secondary woodland ecologically linked with the country park should be rezoned to “CA”;
  - (iii) part of the proposed “GB(1)” zone covering the modified woodland near the existing village settlements could be retained; and
  - (iv) the proposed “GB” zone covering the fung shui woodland ecologically linked with the country park should be reverted back to “CA”.

32. With the aid of a Powerpoint presentation, Mr Tony Nip continued to make the following main points on Pak Lap:

- (a) Pak Lap was located in Sai Kung East Country Park and was a common recreational spot due to its scenic beauty. Pak Lap Wan was regarded as “Hong Kong’s Maldives”. There were many wetlands there in the past. However, around 2009, the natural environment of the area and the wetlands were destroyed with the construction of roads, extensive clearance of woodland and vegetation and construction of man-made ponds. Massive destruction occurred again in 2011, which was widely reported by the media. As shown in a video, excavators and bulldozers were transported by barge to the beach and used for site clearance;
  
- (b) according to the land history record of Pak Lap prepared by a local research community, a development company bought land in Pak Lap from the villagers in 1993-1996. In 1999-2001, PlanD undertook a strategic review of the South East New Territories. One of the owners of the development company participated in the public consultation process and proposed that Sai Kung should be developed for eco-tourism and education uses with relaxation of development restrictions and joint partnership with local people. In 2004-2007, the said owner became a committee member of the Sai Kung District Council and requested the Government to rehabilitate the pier in Pak Lap. In 2007-2009, massive excavation and vegetation clearance occurred in Pak Lap village. In March 2010, an educational institution, in which the said owner was the educational superintendent, sought assistance from the Development Bureau for the setting up of an international school in Pak Lap. In September 2010, the Pak Lap Development Permission Area (DPA) Plan was gazetted. In October 2010, the proposal for the setting up of an international school in Pak Lap was rejected by the Government due to incompatibility with the surrounding environment;
  
- (c) the carrying out of illegal activities in Pak Lap including tree felling, illegal occupation of government land, construction of roads, land excavation and filling and diversion of stream, were in breach of various ordinances e.g. Forests and Countryside Ordinance, Country Parks Ordinance, Land (Miscellaneous Provisions) Ordinance, Town Planning

Ordinance and Waste Disposal Ordinance;

- (d) Pak Lap was an area of high ecological value with high bird diversity and records of some rare bird species. Besides, remaining wetland patches with Water Fern were found in the area. Water Fern was recorded in the book “Rare and Precious Plants of Hong Kong” by AFCD. It was also listed under Category II of wild plant under protection by the State in China. The extent of area covering by Water Fern in Park Lap was not small (a size of about 2.5 basketball courts). Its occurrence depended on site condition and transplantation would not be suitable. The remaining wetland would completely disappear as the area was zoned “V” for Small House development;
- (e) in a report submitted by the Science Department, Hong Kong Institute of Education, to AFCD in 2004, Pak Lap Wan was proposed as a Marine Park/Marine Reserve. The ecological value of Pak Lap Wan was regarded as high in terms of diversity of fish community and *Sargassum* habitat as well as uniqueness of species and habitat;
- (f) in 2006, the Department of Biology and Chemistry, City University of Hong Kong, had undertaken a study on the ecology and aspect of biology of amphioxus in Hong Kong. Pak Lap Wan was considered as an important habitat for amphioxus, which was a living fossil on earth for 500 million years. The water quality requirements of amphioxus were very high. As shown in the study, the water quality of Pak Lap Wan (in terms of amount of suspended solid, ammonia and E.coli) was extremely good and nearly free from pollution. It was one of the four locations in Hong Kong where the density of amphioxus was very high;
- (g) water pollution generated by Small House development in “V” zone would have significant impact on Pak Lap Wan. As demonstrated by the case study in Ma Wan New Village in Tung Chung earlier, the water quality of the nearby stream became very poor with more Small Houses and use of septic tanks. The same situation would occur in Pak Lap in

future. All waste water and pollutants generated by Small Houses in the “V” zone would be discharged into the stream and Pak Lap Wan;

- (h) Pak Lap and Pak Lap Wan should not be affected by inappropriate zonings on the OZP. If the Board endorsed the OZP, the proposed Marine Park and the living fossil of amphioxus in Pak Lap would disappear;
- (i) on 4.7.2011, the Board stated in its press release that it would not tolerate any “destroy first, build later” activities. However, the current OZP in Pak Lap adopted a “destroy first, reward later” approach. Developers could enjoy huge monetary benefits by building Small Houses in the “V” zone after they destroyed the natural environment. In this regard, it was urged that the Board should keep its promise not to tolerate any “destroy first, build later” activities;
- (j) the current “V” zone in Pak Lap would facilitate fraud and abuse of Small House Policy. The majority of land in the “V” zone was owned by a development company. The VR of Pak Lap also admitted that he had exaggerated the amount of Small House demand and he might cooperate with the developers for Small House development. It was therefore against the planning intention to make provision for future Small House development for the indigenous villagers of Pak Lap;
- (k) when considering the Tai Long Wan OZP, the Board agreed that given that there was an inadequate infrastructural provision, the reduction of “V” zones would be more pragmatic and help avoid unnecessary development expectations. Even though at that time AFCD advised that the further objection sites were not a prime area for conservation, the Board considered that the natural beauty of the Tai Long Wan as a whole should be conserved and that AFCD should consider the conservation value of the wider area. The Pak Lap OZP should follow the holistic approach of the Tai Long Wan;

- (l) the Board should better protect the CPE at Pak Lap and Pak Lap Wan (a bathing beach and a proposed Marine Park). The sudden increase of 79 Small Houses was not an incremental approach. It was proposed that:
  - (i) the “V” zone should only confine to the existing village settlements or approved Small House sites;
  - (ii) the “CA” zone covering the secondary woodland ecologically linked with the country park should be retained;
  - (iii) the “V” zone covering the remaining habitat for Water Fern and the riparian zone of the streams (including the streams) should be rezoned to “CA”; and
  - (iv) the grassland and regenerated shrubland/grassland after trashing should be rezoned from “AGR” and “V” to “GB(1)” (in order not to adopt a “destroy first, reward later” approach).

[The meeting was adjourned for a 3-minute break.]

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

33. With the aid of a Powerpoint presentation, Mr Tony Nip continued to make the following main points on So Lo Pun:

- (a) in the 1960s, village settlements (with a population of about 170) were recorded in So Lo Pun. Since the 1980s, the agricultural land in the village had been abandoned. In 2007, village settlements disappeared and the area was covered by dense vegetation. In 2008, extensive tree felling and burning were carried out and the original dense woodlands were destroyed. The incident was reported by the media as a natural habitat disaster. However, the Chairman of So Lo Pun Village Committee indicated to the media that tree felling and rehabilitation of the village could pave way for the future development of villas and oyster bars in So Lo Pun similar to those in Discovery Bay and Gold Coast;
- (b) in 2008, about 400 trees were felled, amongst which some were on

Government land. AFCD issued a summons to the Chairman of So Lo Pun village committee (the defendant). However, the prosecutor from the Department of Justice decided not to adduce evidence to the prosecution case. The defendant was thus acquitted;

- (c) in 2010, there was even more destruction in So Lo Pun with some mangrove areas and woodlands being destroyed. Illegal excavation activities were also carried out on government land and LandsD had to undertake reinstatement works. In the same year, the So Lo Pun DPA was gazetted to deter further destruction activities. The Board also promised in 2011 that it would not tolerate any “destroy first, build later” activities. However, the current So Lo Pun OZP showed that a “destroy first, reward later” approach was adopted by the Board as the destroyed woodland area was now zoned “V”;
- (d) the So Lo Pun area was of very high ecological value comprising wetlands, seagrass bed, mangroves, woodlands, streams and river valley. There were 244 vascular plant species (e.g. Spiny Tree-fern, Incense Tree, Water Fern, Lamb of Tartary, Dwarf Eel Grass) recorded. Other rare species covering dragonfly (e.g. Mangrove Skimmer), fish (e.g. Japanese Eel, Rice Fish and Orange Peacock Puffer Fish), amphibian (e.g. Big-headed frog), bird (e.g. Crested Kingfisher), mammals (e.g. Crab-eating Mongoose, Yellow-eating Mongoose and Greater Bamboo Bat) were also found;
- (e) the current So Lo Pun OZP would have adverse impacts on the natural environment in terms of serious water pollution, channelization of streams, light pollution, barrier effect, fragmentation, human disturbance and vegetation clearance;
- (f) as shown in the case study of Man Wan New Village in Tung Chung earlier, water pollution would be generated by the development of Small Houses. The same situation would occur in So Lo Pun in future as 134 new Small Houses were proposed in the “V” zone of So Lo Pun;

- (g) the current “V” zone was next to the wetland area. All pollutants would be discharged through the tributaries to the main stream and then into the wetland area. As a result, all rare aquatic species would die. Besides, as pollutants and garbage could not be brought away by wave actions, they would accumulate in the mangroves and seagrass area;
- (h) Dwarf Eel Grass was highly restricted in its distribution in Hong Kong. There were only seven locations where Dwarf Eel Grass could be found. In this regard, the representer had originally proposed that So Lo Pun should be zoned “SSSI” given the large coverage of Dwarf Eel Grass;
- (i) a seasonal stream in So Lo Pun currently passed through the “V” zone. It was likely that villagers of future Small House development would channelize the stream in view of the flood hazard. However, PlanD could not take enforcement action as it was not regarded as a diversion of streams;
- (j) vegetation within the “V” zone would be cleared for Small House development in future. There was no guarantee that the clearance would not extend to the adjacent “GB” zone covering the woodland areas which were ecologically linked with the country park;
- (k) an inconsistent approach was adopted by PlanD in zoning the woodland areas on the three OZP areas. While woodlands in all the three areas were ecologically linked with the adjacent country park with protected plant species and/or rare wild mammal species, the Pak Lap woodland and majority of Hoi Ha woodland were zoned “CA” whereas So Lo Pun woodland was only zoned “GB”. In So Lo Pun woodland, there were 171 plant species (as compared to 25 to 121 in Pak Lap and 114 to 130 in Hoi Ha); three protected plant species (as compared to one in Pak Lap and a few in Hoi Ha); three rare wild mammal species (as compared to one in Hoi Ha and nil in Pak Lap). In view of the high ecological value of the So Lo Pun woodland, it should be zoned “CA”;

- (l) there was not enough protection for the upper section of the stream which was zoned “GB”. All pollutants entering the upper section of the stream in future would also affect the lower section of the stream (an EIS) and the wetlands. According to AFCD, Rice Fish was recently found in the upper section of the stream which was being considered by AFCD for designating as EIS;
- (m) all rare mammals currently found in So Lo Pun, i.e. Leopard Cat, Greater Bamboo Bat, Yellow-bellied Weasel and Crab-eating Mongoose, would be seriously affected by the new development. In particular, So Lo Pun was the only place in Hong Kong where the Greater Bamboo Bat was recorded and the distribution of Yellow-bellied Weasel and Crab-eating Mongoose was also restricted to the North-East New Territories including So Lo Pun;
- (n) light pollution generated by Small House development in the “V” zone would also affect those nocturnal animals, e.g. the Greater Bamboo Bat;
- (o) Small House development would create a barrier effect and lead to fragmentation of ecological habitats which would affect the life of animals. Besides, there would be severe human disturbance and noise effect due to increase of population in the area;
- (p) dumping of construction waste from Small House development to the nearby wetland area would occur in future. As shown in some previous cases in Kam Tin and Pak Lap, reinstatement notice issued by PlanD could not resolve the problem. The man-made grassland after reinstatement was different from the original wetland;
- (q) the proposed 1,000 population was based on a guesstimate of the future Small House demand forecast by the VR of So Lo Pun. The proposed 134 Small Houses could never satisfy the demand of the land owners. If the So Lo Pun OZP was approved, it would become a classic case



study on how village development would destroy an ecological hotspot;

- (r) according to the So Lo Pun OZP, the general planning intention was to protect the high conservation and landscape value of the area which complemented the overall naturalness and the landscape beauty of the surrounding Plover Cove Country Park. Development that might adversely affect the rural character and the ecologically sensitive areas would not be recommended. Besides, no large-scale development should be introduced in order to minimise encroachment onto the sensitive environment and to protect and enhance ecological conservation. However, the provision of 134 Small Houses within the “V” zone of the OZP was against the above planning principles;
- (s) the So Lo Pun OZP should also follow the holistic approach of the Tai Long Wan; and
- (t) the Board should better protect the CPE at So Lo Pun. The sudden increase of 134 Small Houses and 1,000 persons was not an incremental approach. It was proposed that:
  - (i) the “V” zone should only confine to the existing village settlements or approved Small House sites;
  - (ii) all the freshwater wetlands, reedbeds, seagrass bed, mangroves and riparian zone of the streams (including the streams) should be rezoned from “V” and “GB” to “CA”;
  - (iii) the “CA” zone covering the secondary woodland and fung shui woodland ecologically linked with the country park could be retained; and
  - (iv) the regenerated grassland after trashing should be rezoned from “V” to “GB(1)” (in order not to adopt a “destroy first, reward later” approach).

[Actual speaking time of HH-R10883, SLP-R10821 & PL-R10739: 87 minutes]

SLP- R10823 - Eco-Education & Resources Centre

R6138 –Verity B Picken

PL-R10740 – Green Peace

34. Ms Michelle Cheung made the following main points:

- (a) when the Board decided to allow more village type developments in CPEs, it had to consider the demand for additional infrastructure and the possible impacts on the surrounding areas; and
- (b) access to Hoi Ha and Pak Lap was currently controlled at the gate at Pak Tam Chung. Access beyond the gate was restricted and controlled by permits. The “V” zones under the Hoi Ha and Pak Lap OZPs would allow development of more than 100 Small Houses. The future residents in new Small Houses would demand for more infrastructure including roads and sewerage systems. This might result in widening of the roads leading to Hoi Ha and Pak Lap. It could be even worse if the gate at Pak Tam Chung had to be opened up to accommodate the influx of additional population. This would further affect other CPEs, including Pak Sha O, Tai Tan, Ko Tong and Ha Yeung, as their access was also currently controlled by that gate.

[Actual speaking time of SLP-R10823, R6138 & PL-R10740: 3 minutes]

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

HH- R10882, SLP-R10819 & PL-R10743 - The Hong Kong Bird Watching Society (HKBWS)

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

- (a) birds were useful indicators of biodiversity because different bird species

had specific habitat requirements and they were very sensitive to environmental changes;

- (b) Hoi Ha had diverse habitats and eight natural habitats had been identified by the consultants. According to the HKBWS's records, waterbirds, seabirds, woodland birds, raptors and open area birds were recorded in Hoi Ha. This reflected that the coastline, woodlands and wetlands in Hoi Ha were in very good conditions. Brown Fish Owls had a stable population in Hoi Ha as they preferred undisturbed, unpolluted, lowland streams and tidal creeks. Other than Hoi Ha, they were only found in six other locations including the EISs at Tai Tan, Yung Shue O, Pak Tam Chung and Pui O;
- (c) in Pak Lap, waterbirds, land birds, woodland birds and raptors were recorded. This also reflected that the woodlands and wetlands in Pak Lap were in very good conditions;
- (d) in So Lo Pun, waterbirds, woodland birds, raptors and riverine species were recorded. In particular, the Crested Kingfisher, which was a scarce resident in the region, was spotted in So Lo Pun. This species also preferred undisturbed woodland with natural stream habitats; and
- (e) the Board was requested to note the scientific evidence provided by HKBWS which substantiated the importance of Hoi Ha, Pak Lap and So Lo Pun; to plan according to the Principles of Conservation in Chapter 10 of the Hong Kong Planning Standards and Guidelines; and to accept the rezoning proposals for the three OZPs put forward by the Save Our Country Park Alliance.

[Actual speaking time of HH-R10882, SLP-R10819 & PL-R10743: 4 minutes]

R1990 – Denis Leung

36. Mr Yeung Man Yau made the following main points:

- (a) he was from Green Peace. He agreed with the representations made by the Save Our Country Park Alliance;
- (b) the protection of CPEs was included under the section on “Conservation” in the Policy Address. As such, the planning controls in CPEs should be restrictive in order to achieve conservation objectives and unnecessary developments should be avoided; and
- (c) the Board was urged to accept the rezoning proposals for the three OZPs put forward by the Save Our Country Park Alliance.

[Actual speaking time of R1990: 2 minutes]

HH-R10755, SLP-R10822 & PL-R10741 - The Conservancy Association

37. Mr Roy Ng made the following main points:

- (a) So Lo Pun, Hoi Ha and Pak Lap were of very high ecological and landscape values. The OZPs should emphasize on conservation of the CPEs. If excessive “V” zones were designated, it would give a false impression to villagers that the CPEs were suitable for large scale developments and that additional infrastructure would be provided to support such developments;
- (b) the Tai Long Wan approach should be adopted for the three OZPs. The Conservancy Association was involved in public campaigns for protection of Tai Long Wan back in 2001. In gist, there should be a holistic approach with emphasis on conservation; the “V” zones should be substantially reduced; and NTEH should be included as a Column 2 use that required planning permission from the Board; and
- (c) reduction in the size of the “V” zone would reduce villagers’ expectation for large scale developments in the CPEs. In fact, a lot of private land

had been sold off to developers and there was no genuine need for Small House development for villagers. The Board could maintain control if planning permission was required for NTEH developments to ensure that new developments were compatible with the village setting and the surrounding environment. The public would also have an opportunity to provide comments on planning applications for NTEHs in the CPEs.

[Actual speaking time of HH-R10755, SLP-R10822 & PL-R10741: 5 minutes]

R2474 - John Wright

R10544 – Friends of Sai Kung

38. Mr John Wright made the following main points:

- (a) if the Board endorsed the three OZPs, it was endorsing destruction of the rule of law in the country parks. If development was allowed, the natural beauty in the country parks would be lost forever;
- (b) development of such scale in country parks was unprecedented. The three OZPs would increase the number of village houses by four to five folds. In So Lo Pun, 134 houses would be allowed but there was no one living there at present and there was no road access; and
- (c) the Board was guarding a priceless public heritage. The Board should not endorse the three OZPs that would only benefit the developers.

[Actual speaking time of R2474: 2 minutes]

R799 - Designing Hong Kong Limited

39. With the aid of a Powerpoint presentation, Mr Paul Zimmerman made the following main points:

- (a) the Board was not only making a decision about So Lo Pun and there had

to be a holistic view on the planning for the Plover Cove Country Park. It was not acceptable for the Board to allow the population there to increase from 300 to 13,000;

- (b) AFCD, who was the manager of the country parks, advised the Board that the land proposed to be zoned “V” was not so valuable from the conservation point of view. However, an increase in population would necessitate increase in the provision of infrastructure for water, sewerage, roads and emergency access. It was not possible to provide such infrastructure within the country parks;
- (c) the cumulative impacts on country parks had not been assessed. The Board could not make decisions without information on cumulative impacts. That would be unacceptable and irrational;
- (d) the existing Small House Policy and application system were ineffective to control impacts of Small House developments. It was evident that reliance on ProPECC would only create sewerage and pollution problems which were prevailing in existing villages. The Board had to face the reality and consider the genuine impacts of having extensive “V” zones in the CPEs; and
- (e) the Board should follow the Tai Long Wan approach to amend the three OZPs accordingly so as to provide better protection for the three CPEs.

[Actual speaking time of R799: 5 minutes]

HH-R10874, SLP-R10822 & PL-R10741 – WWF-Hong Kong

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

- (a) he had worked for a long time on nature conservation. Of the 12 CPEs that were damaged, he had visited 11 of them before they were damaged.

After the Tai Long Sai Wan incident in 2010, there were hopes for better protection of the CPEs. The policy to protect the CPEs were included in the Policy Address and AFCD had amended their policy such that private land could be included into country parks. Nevertheless, four additional enclaves had been damaged since 2010;

- (b) the surrounding country parks and coastlines in So Lo Pun, Hoi Ha and Pak Lap were with exceptionally high conservation value. It was inappropriate to designate extensive “V” zones on the three OZPs as land already bought by private developers as well as areas that were only destroyed a few years ago would be involved; and
- (c) the Board had the responsibility to protect the CPEs when it made a decision on the three OZPs.

[Actual speaking time of HH-R10874, SLP-R10822 & PL-R10741: 2 minutes]

R10587 – Ruy Barretto

41. With the aid of a Powerpoint presentation, Mr Ruy Barretto made the following main points:

*Proposed Amendments to the three OZPs*

- (a) the amendments to the OZPs proposed by the non-government organisations (NGOs) reflected the site conditions and the scientific evidence that had been presented at the meeting. The main objectives of the proposed amendments were to protect the ecological value of the CPEs and to guard against the adverse impacts caused by Small House developments;
- (b) in gist, the proposed amendments were to rezone the streams and woodlands as “CA”; to confine the “V” zones to the existing village settlements; to zone the destroyed areas as “GB(1)”;

- (c) the Notes of the OZPs were proposed to be amended, including amendments to the wording for the planning intention along the lines in the Tai Long Wan OZP; deletion of uses such as ‘Public Transport Interchange’ and ‘Public Vehicle Park’ from the user schedule of the “V” zones; inclusion of more stringent planning controls on development in “V” zones; and modification to the Notes of the “GB(1)” zone such that new developments would not be permitted;
- (d) the Explanatory Statement (ES) should be amended to make it clearer and with more elaboration on the planning intention for conservation. Paragraph 8.1 of the ES, which was proposed for deletion in the tabled document, should be kept;
- (e) the planning intention for Hoi Ha in the published OZP was inadequate, as there was no mention of the marine park thereat;

*The Board’s Duty to Better Protect the CPEs*

- (f) the zonings in the three OZPs were not realistic and important issues were not addressed. The NGOs had provided the solutions in their proposed amendments, that were consistent with the Government’s CPE policy, the Environment Bureau’s policy, the international obligations under the Convention on Biological Diversity, the planning principles, the law and the Tai Long Wan approach;
- (g) the Board could not just say that the matter fell outside its purview. The Board had a duty to take forward the CPE policy to better protect the CPEs and country parks. The Board should adopt the Tai Long Wan approach to amend the three OZPs having regard to public interest;
- (h) conceding to development pressure was not a balanced decision. It was necessary to recognise that village type developments would cause pollution; ProPECC was not an effective measure against pollution; the



“V” zoned land would eventually be sold to developers and there was no genuine need to build Small House for villagers’ own use; and unauthorised site preparation would cause destruction to the environment. It should also be noted that there was public interest of 13 million visitors to country parks; Hong Kong was a biodiversity hotspot in this part of the world; there was a government policy to protect the CPEs; and there were obligations under the Convention on Biological Diversity. The Board had a duty to maintain planning control and not to pass it back to other departments/bodies;

- (i) the Board had not been provided with answers to matters raised by the representers, for example, there was no response in the Paper to the detailed scientific evidence provided by Mr Kevin Laurie, which was also supported by professors and experts of the University of Hong Kong. Since there was insufficient evidence provided by the Government, the Board should rely on the evidence provided by the experts of the green groups at the meeting;
- (j) the Board had adopted a holistic and ecosystem approach in Tai Long Wan. In the second judicial review for Sha Lo Tung, AFCD was also advocating that the ecosystem approach should be adopted to protect Sha Lo Tung. The same approach should be applied to the three CPEs. That would be pragmatic, good planning, with good ecological sense and in line with the precautionary principle; and
- (k) the demand for Small House was not real but the risks of destruction to the CPEs were real and tangible. The Board had a duty to provide lawful and rational planning. The Board’s decision should follow principles, policy, precedents, law and evidence.

[Actual speaking time of R10587: 9 minutes]

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

- (a) the planning system could protect the CPEs if a holistic and ecosystem approach was adopted. In considering the Tai Long Wan case, the Board recognised that there was no existing infrastructure and it would be difficult to provide such infrastructure in the country parks in future. Hence, the only pragmatic way forward was to reduce the “V” zone, which would also reduce the expectation for future development. At that time, the Board also considered that AFCD should have taken a more macro view when considering the values of the CPEs;
- (b) the Board should adopt four straightforward and simple points to amend the OZPs, that were, to reduce the “V” zones to cover only the existing village settlements and approved Small Houses; to move ‘NTEH’ from a Column 1 use to a Column 2 use in the user schedule of “V” zones; to delete “House (other than NTEH)” from the user schedule of the “V” zones; and to require planning permission for any demolition, addition, alteration and/or modification to an existing building;
- (c) due to the imminent destructions at Pak Lap, So Lo Pun and Hoi Ha, they were the first three CPEs to be covered by DPA plans. The consensus at the time of publishing the DPA plans were to protect the CPEs. However, the three published OZPs seemed to reward the destruction that had taken place and against the original intention of the DPAs, the CPE policy, the Convention on Biological Diversity and the requirements in the relevant Ombudsman Report and Audit Reports;
- (d) the “V” zones in the OZPs would make additional provision for 40 Small Houses in Hoi Ha, 79 houses in Pak Lap and 134 houses in So Lo Pun (despite there was currently no population in So Lo Pun). The principles of imposing stringent planning controls to protect these CPEs had to be upheld, otherwise, it would set an undesirable precedent for the upcoming OZPs for other CPEs and that would result in opening a

floodgate for village developments and destruction;

- (e) it was not in the public interest to clear the wetlands/woodlands in the CPEs for building luxury housing that might not be occupied upon completion. It was not in line with the public interest to zone land as “V” if they had been or would eventually be bought by developers instead of to cater for the genuine housing needs of villagers. The real public interest was to preserve the natural environment in country parks and the CPEs for meeting the recreation/leisure needs of Hong Kong people. In fact, in the Court judgment on the Tai Long Sai Wan case, it was affirmed that incorporation of Tai Long Sai Wan into the country park was in line with the public interest for its protection.

43. With the aid of a Powerpoint presentation, Mr Chiu Sein Tuck made the following main points:

- (a) planning for the CPEs should follow the ‘3Rs’, that were, respect for traditional rights, respect for nature and respect for public interest. The Tai Long Wan approach, encompassed these 3Rs, should be adopted to bring about a win-win solution;
- (b) there should be respect for the traditional rights of indigenous villagers to build Small Houses for their own use. Applications for Small Houses in country parks and rezoning applications for Small Houses could be approved if genuine need was demonstrated. Approval on a case-by-case basis was a truly incremental approach, and would be far better than zoning large areas as “V” in one go; and
- (c) there should be respect for nature. While STS system was used for Small Houses, the sewerage was only being soaked away to the surrounding habitats that supported other wild life species. Hence, Small House developments would inevitably cause water quality impacts and destruction to biodiversity, and such impacts were permanent and irreversible.

44. Mr Tony Nip supplemented that rezoning for Small House developments had been previously approved by the Board in “CA” zones (such as at Kei Ling Ha Lo Wai) and even within Wetland Conservation Area and Wetland Buffer Area as long as the applicant could demonstrate that there was a genuine housing need. Only approval on a case-by-case basis was a truly incremental approach.

[Actual speaking time of HH-R10883, SLP-R10821 & PL-R10739: 12 minutes]

45. As all the presentations of the representers and representers’ representatives scheduled for this session had completed, the Chairman invited questions from Members.

#### *Sewage Disposal Problem*

46. A Member asked how the sewage disposal problems arising from Small House development as claimed by some representers could be prevented. Mr C.K. Soh, DPO/STN, replied that there was no existing sewer or planned public sewer in the three OZP areas. Disposal of foul water from Small House developments had to rely on on-site STS system which would be considered by concerned departments (including EPD, DSD, Water Supplies Department (WSD), AFCD and PlanD) during the processing of the Small House application by LandsD. The design and arrangement of sewage disposal works should comply with the requirements from the relevant government departments.

47. Mr Soh further explained that in accordance with the Environmental, Transport and Works Bureau’s Technical Circular (Works) (ETWBTC(W)) No. 5/2005, for development proposals/submissions that might affect natural streams/rivers, the approving/processing authorities should consult and collate comments from relevant departments including AFCD. The use of septic tank as a sewage treatment and disposal option in the rural areas with small population was permitted under the Hong Kong Planning Standards and Guidelines. For protection of the water quality of the areas, the design and construction of on-site STS for any development proposals/submissions would need to comply with relevant standards and regulations, such as EPD’s ProPECC PN 5/93. Operation and maintenance practices for septic tank (e.g. desludging practices) were also given in EPD’s “Guidance Notes on Discharges from Village Houses”.

48. Noting the concern of some representers on the water pollution problem, the Chairman asked how the illegal disposal of waste water into the storm drains could be prevented. Mr C.K. Soh said that the STS system was used to handle the waste water discharged from the Small Houses whereas the storm water pipes were used to discharge rain water. The two systems should be separated. Mr C.W. Tse, Deputy Director of Environmental Protection, supplemented that discharge of domestic or commercial waste water into storm water pipes causing pollution would be an offence under the Water Pollution Control Ordinance against which EPD would take enforcement action.

#### *Geological Constraints*

49. On a representer's concern that the geological setting of the three OZP areas covering with alluvium was not suitable for the use of septic tank, Mr C.K. Soh said that according to EPD, in considering whether a site was suitable for septic tank construction for sewage treatment and disposal, a number of site-specific conditions had to be taken into account such as percolation test result, proximity to rivers/streams, depth of ground water table, topography, and flooding risks, etc. Site-specific information was essential, particularly if the soil characteristics such as the soil textures were believed to be highly variable even on the same site. The percolation test was one of the requirements set out in ProPECC PN 5/93 which should be followed by Authorized Persons to determine the absorption capacity of soil and hence the allowable loading of a septic tank. This test would allow relevant parties to ascertain whether the soil condition was suitable for the proper functioning of a septic tank for effective treatment and disposal of the effluent. As such, the site-specific conditions of the areas would be taken account of in assessing the acceptability of proposed STS system. Apart from percolation test, ProPECC PN 5/93 also set out the design standards, including clearance distances between a septic tank and specified water bodies (e.g. ground water tables, streams, beaches, etc.), as well as clearance distances between buildings. These requirements would help identify the appropriate ground conditions suitable for the construction of septic tanks, and limit the density of houses to certain extent.

50. Mr Kevin Laurie said that a STS system was not feasible in floodplains. According to EPD's guidelines, a STS system should not be adopted in areas with high

ground water tables and areas prone to flooding during storms. Hence, the use of percolation test was not applicable and was irrelevant for these cases.

51. In response to a Member's question on the percentage of land within the "V" zones of the three OZPs that were located on top of alluvium, Mr Kevin Laurie said that all of them were located within river valleys in floodplains underlain by alluvium and were susceptible to flooding. The same Member said that the "V" zone in Hoi Ha Wan was located on raised beach with sand deposits. Mr Laurie replied that even though Ho Ha Wan and So Lo Pun were located on raised beaches, they were located at the bottom parts of river valleys and the underlying materials were still alluvium. In response to the same Member's comment that the depth of the alluvium varied among floodplains, Mr Laurie replied that although the depth of alluvium might vary, they were still interconnected and that caused flooding.

#### *Planning Principles for Preparation of the OZPs*

52. Two Members asked about the planning principles for the preparation of the three OZPs which covered the CPEs and the Government policy for the protection of CPEs. One of these Members noted that the CPEs were not 'protected areas' under the Country Parks Ordinance. Mr C.K. Soh said that as stated in the ES of the three OZPs, the general planning intention was to conserve the natural landscape and conservation value of the areas, to protect their natural and rural character and to make provision for future Small House development for the indigenous villages. In the designation of various land use zones, special attention had been given to protecting areas of ecological and landscape significance that were not suitable for development by zoning them "CA", "CPA" and "GB", taking into account the comments of AFCD and other relevant departments. Discounting the environmentally sensitive areas zoned "CA", "CPA" and "GB", PlanD would consider whether the residual area were suitable for development. That was in line with the established Government's policy to protect the natural environment and ecological habitats in CPEs.

#### *Designation of "V" zone*

53. A Member noted that the land currently zoned "V" on the three OZPs could

not satisfy the future Small House demand (both the outstanding demand and the 10-year demand forecast) and asked about the basis for the designation of the “V” zone. Mr C.K. Soh said that the boundaries of the “V” zones were drawn up after considering a number of factors including the ‘VE’, local topography, existing settlement pattern, Small House demand forecast, areas of ecological importance, as well as other site-specific characteristics. Small House demand forecast, which was provided by the VRs to LandsD, was only one of the many factors in considering the “V” zones. Only land suitable for Small House development was included in the “V” zones whilst environmentally/ecologically sensitive areas and areas with steep topography had been excluded. Since the Small House demand provided by the VR might change over time, an incremental approach had been adopted for designating “V” zones for Small House developments in that the land area of “V” zone would not fully meet the land requirement of Small House demand at the outset with an aim to confining such developments at suitable locations adjacent to existing village clusters.

54. This Member further asked for the criteria in determining the amount of Small House demand to be met in the first instance. Mr C.K. Soh said that as in the case of So Lo Pun, according to the original Small House demand forecast provided by the VR, about 270 Small Houses were required to meet future demand. However, after assessing all relevant planning considerations and without compromising the environmentally/ecologically sensitive areas, PlanD considered that the amount of suitable land available could only build 134 Small Houses. The size of the “V” zone was a result of striking a balance between conservation and development needs. In drawing up the “V” zones, views and comments from stakeholders including relevant District Councils (DCs), Rural Committees (RCs), villagers and green/concern groups and government departments were sought.

55. Another Member noted that the VR of So Lo Pun had told the media that the forecast population of 1,000 provided by him to LandsD was only a guesstimate and asked whether PlanD was aware of that when preparing the OZP. Mr C.K. Soh replied that there was currently no population in So Lo Pun. The figure of 1,000 was derived from the number of new Small houses (134) that could be built within the “V” zone on the OZP.

56. In response to a Member's concern on the need for new infrastructure to cater for the future Small House development within the "V" zones, Mr C.K. Soh said that when considering the draft OZPs, the Board had taken into account all relevant planning considerations, including the advice of the relevant government departments and public views. Neither the Transport Department nor Highways Department had raised any concern on the "V" zones from the traffic and transport infrastructure points of view. There was currently no plan to develop new transport infrastructure for the areas. Future residents would rely on the existing facilities e.g. footpath and water transport. There was also no problem for the provision of other infrastructure facilities such as water supply and electricity. Relevant works departments would keep in view the need for infrastructure in future and provision would be subject to resource availability.

#### *Ecological Information*

57. A Member asked whether AFCD had been consulted on the ecological information presented by the representers at the hearing. Mr C.K. Soh said that the ecological information was provided by the representers in their written submissions during the plan exhibition period and had been circulated to relevant Government departments, including AFCD, for comments. In general, there was no dissenting view on the ecological information on the rare species. However, AFCD was of the view that some of those rare species were also found in within the country parks and not confined to specified locations within the OZP areas. Mr Kevin Laurie confirmed that all ecological information presented by him was true and was extracted from scientific reports and AFCD's website.

#### *Zonings for Streams*

58. A Member asked why the zonings for different sections of a stream were different on the OZPs. Mr C.K. Soh said that in advising PlanD on preparing the draft OZPs, AFCD had emphasised more on the preservation of habitats with high conservation value rather than records of individual species or specimens of conservation interest. In the case of So Lo Pun, important habitats such as mature native woodlands and the wetland system, including the mangrove, seagrass bed, reed pond, EIS and the freshwater marsh,



which could provide suitable habitats supporting a variety of species, were zoned “CA”. The upper section of So Lo Pun Stream was not an EIS and the area consisted of relatively young woodland and shrubs that had developed from abandoned agricultural land. There was no special ecological value which warranted a “CA” zone. Hence, AFCD considered that a “GB” zone was appropriate for the area. He said that there was a general presumption against development within “GB” zone and any Small House development required planning permission from the Board.

### *Land Ownership*

59. A Member noted that according to one of the representers, majority of land within the “V” zone on Pak Lap OZP was under the ownership of a development company and asked whether PlanD had taken that into account in drawing up the “V” zone. Mr Ivan Chung, DPO/SKIs, replied that PlanD was aware of privately owned land but land ownership was not a material planning consideration in drawing up the “V” zone as it would be subject to change under prevailing market conditions. The boundaries of the “V” zones were drawn up after considering the ‘VE’, local topography, settlement pattern, Small House demand forecast, areas of ecological importance, as well as other site-specific characteristics. He added that when considering Pak Lap OZP, the Board had further reviewed the representations received on the Pak Lap DPA Plan. Besides, the relevant DC, RC, local villagers and green/concern groups were also consulted on the draft OZP and their views were reported to the Board before the draft OZP was gazetted.

60. In response to the comments made by Members and PlanD, Mr Paul Zimmerman made the following points:

- (a) according to the Hoi Ha OZP, “GB” zone was available for Small House development with planning permission from the Board. It was not solely for environmental protection;
- (b) as shown by the evidence provided by the representer, despite that the ProPECC had been in force for many years, water quality continued to deteriorate in areas with increasing Small House developments. The ProPECC only helped minimise, but not avoid, pollution. There should

be zero pollution for CPEs. It was unrealistic to rely on the villagers to build a central sewage treatment system and future Small Houses were too remote to connect to the public sewerage system;

- (c) PlanD neglected the impact of future Small House developments on the adjoining areas of high ecological and conservation value e.g. wetland;
- (d) the Small House demand forecast was not a real demand and did not reflect the actual need of the indigenous villagers. Land in the “V” zone would only be used by villagers for monetary benefits;
- (e) CPEs were not protected areas as SSSI or country parks and that was the reason why the Government had to consider ways to protect them from destruction. It was also a Government commitment. The Government should keep its promise to protect the areas;
- (f) the impact of Small House developments in CPEs was not the same as that in other rural areas e.g. Pak Heung. There was a need for the Government to protect these enclaves which were next to Plover Cove Country Park and SKW Country Park;
- (g) the Board would be under criticisms for zoning the majority of private land under single ownership of a developer as “V” in Pak Lap, given that the land would not be used by the villagers in future;
- (h) it was unreasonable and irresponsible for the Board to designate the “V” zones on the three OZPs while there was no plan to develop new infrastructure to cater for future development needs; and
- (i) the Board should preserve the highly unique lowland habitats in these CPEs where rare bird species were recorded and should not destroy these precious habitats.

61. Mr Ruy Barretto supplemented the following points:

- (a) planning should be based on principles and policies, not a bargaining process which was not scientific. The Board should not plan for the benefits of the developers. The Tai Long Wan approach should be adopted in planning the CPEs;
- (b) it was irresponsible for the Board to designate “V” zones for Small House developments without any new infrastructure;
- (c) the Environment Bureau had a policy to protect the CPEs but it was not referred to on the three OZPs;
- (d) clear evidence was provided by the representers to the Board that the proposed land use zonings on the three OZPs would increase pollution and destroy the natural habitats in the areas. The ProPECC was inadequate and not enforceable; and
- (e) the Board should plan to protect the public interest in accordance with the Town Planning Ordinance and international principles.

62. With the aid of a Powerpoint presentation, Mr Tony Nip further supplemented the following points:

- (a) as shown on the newspaper cuttings, the preparation of the DPAs for Hoi Ha, Pak Lap and So Lo Pun by the Board in 2010 was supported by the public and the media. These areas were not ‘protected areas’ and that was why the Board had to impose statutory control to protect these areas from destruction. However, the proposed Small House developments in the “V” zones on the three OZPs would destroy the natural environment and were against the original intention for protecting these areas when preparing the DPAs. That was not an incremental approach as claimed by PlanD;
- (b) the public views were very clear. There were about 30,000

representations opposing the “V” zones but only 3,000 representations supporting the “V” zones;

- (c) a stream was ecologically connected as a whole and fishes would swim from the upstream part to the downstream part. As in the case of Tai Long Wan OZP, a holistic and ecosystem approach was adopted by the Board for the zoning of a stream. The whole stream and its riparian areas were protected by “CA” zoning which did not rely on the grading of any EIS system. Hence, there was no reason why different zonings were currently designated for different sections of streams in So Lo Pun and Hoi Ha. The streams in Hong Kong were so small and short that they should be regarded as just one system;
- (d) PlanD and AFCD stated that the recorded rare species were not confined within specified habitats in these three enclaves and they could go elsewhere. That was totally wrong. The seagrass bed in So Lo Pun were only found in seven locations along the entire coastline in Hong Kong and the Greater Bamboo Bat was only recorded in So Lo Pun. Similarly, the amphioxus in Pak Lap Wan was only found in four bays in Hong Kong. They were all of very high ecological values that were worthy of high level of protection;
- (e) the three CPEs were highly inaccessible. It was unreasonable that no new infrastructure (e.g. roads, sewerage system, emergency vehicular access) was planned for the future Small House developments in the “V” zones; and
- (f) the ineffectiveness of the ProPECC could be shown by the prevailing waste water and pollution problems created by existing Small House developments. In practice, EPD might not always be consulted on Small House applications. LandsD could approve some applications based on internal guidelines without having the consent of EPD.

63. The Chairman reminded representers and commenters that the Q&A session

was for Members to ask questions. Representatives and commenters should only respond to the points made by PlanD during the session but not to repeat points already made in the earlier part of the presentation.

### *Consultation Process*

64. The Vice-chairman noted that since the gazetting of the DPA plans, PlanD had consulted relevant stakeholders including the DC, RC, VR and green groups on the preparation of the OZPs. Yet, the proposed land use zonings on the OZPs still could not meet the aspirations of both the green groups and the villagers. As more OZPs would need to be prepared for other CPEs in future, he asked PlanD whether there was scope for improvement to the consultation process.

65. Mr C.K. Soh said that the gazetting of DPA Plans was a stopgap measure to protect the CPEs from further destruction by extending the Board's enforcement power to these areas while allowing time for the Board to prepare detailed land use zonings on the OZPs. During the plan-making process, advice from government departments and views from relevant stakeholders and concerned parties had been taken into account in designating appropriate land use zonings to protect these areas, with a view to striking a balance between conservation protection and the need of villagers for Small House developments. Views from the stakeholders and concerned parties were presented to the Board when considering the draft OZPs. Representations and comments received during the plan exhibition period had also been considered and submitted to the Board for consideration.

### *Tai Long Wan Approach*

66. Mr Paul Zimmerman queried why the approach on Tai Long Wan OZP was not adopted for the three OZPs. According to an Audit Report, a meeting was held between PlanD and AFCD in October 2010 to identify the list of CPEs which required statutory protection. He agreed that it was a right decision for the Government to stop development and destruction in those areas. However, during the preparation of the OZPs, there was no clear instruction to PlanD on how to protect these areas except to follow the Small House Policy. According to a LegCo paper, two meetings were held in

July and November 2011 with Heung Yee Kuk. As no minutes of the meetings were disclosed, it was not sure whether the two meetings were concerned with the change of Government policy in providing land for new Small House developments in these areas, which was different from the Tai Long Wan approach adopted in 2004. He urged the Board to follow the CPE Policy in protecting the three CPEs against incompatible development and pollution.

67. The Chairman asked PlanD to clarify whether it was true for Mr Paul Zimmerman to claim that the only instruction for the preparation of the three OZPs was to follow the Small House Policy. Mr C.K. Soh said that Small House Policy was not a starting point for the preparation of the OZPs for the three CPEs. Rather, in drawing up the three OZPs, special attention was first given to protecting the ecological and landscape significance of the areas. Yet, the need to make provision for future Small House developments to cater the needs of the indigenous villagers had also been taken into account.

68. A Member asked PlanD to confirm whether Small House developments in Tai Long Wan were only limited to the existing village areas. Mr Ivan Chung said that under the Tai Long Wan OZP, the “V” zone was to reflect the existing recognised villages in Tai Long Wan and any development or redevelopment of existing Small Houses would require planning permission from the Board. He said that the old village houses in Tai Long Wan were of high heritage value. In particular, Ham Tin Tsuen and Tai Long Tsuen were Grade 1 historic villages. As stated in paragraphs 8.1.2 and 8.1.3 of the ES of the Tai Long Wan OZP shown on the visualiser, in order to safeguard the natural and heritage features and to minimize human disturbance to the sensitive and tranquil environment in Tai Long Wan, only the existing village areas were covered under the “V” zones. It was stated in the ES of the Tai Long Wan OZP that the Antiquities and Monuments Office (AMO) should be consulted well in advance on any development or redevelopment proposals affecting these sites of historical interests.

69. Referring to paragraph 7.1 of the ES of the Tai Long Wan OZP shown on the visualiser, Mr Paul Zimmerman said that the primary planning intention of the Tai Long Wan area was to conserve the scenic and unspoiled natural environment by protecting features of ecological significance, the natural landscape and the rural character. To

conserve the historic and archaeological value of the area was a secondary planning intention. With the aid of some photos, he said that the environment for villages in the three OZP areas like Mun Tsz Lam, Kop Tong and Lai Chi Wan was no different from those villages in Tai Long Wan.

70. Mr Ruy Barretto echoed that the planning intention of Tai Long Wan was for protection of the ecological habitats and natural landscape, not just for protection of heritage. The Board had a duty to follow the Tai Long Wan approach in planning the three OZP areas.

71. Mr Michael Lau supplemented that Tai Long Wan was a good precedent. During the preparation of Tai Long Wan OZP, there were also conflicting views among green groups and villagers. At that time, villagers had a strong demand for the provision of Small Houses. However, he wondered how many indigenous villagers had actually built Small Houses in that area over the past ten years. He considered that it was unreasonable to assume that there would be a sudden increase in Small House developments in Hoi Ha, Pak Lap and So Lo Pun, given that there would not be any change in site condition or provision of new infrastructure in future.

72. As Members had no further question, the Chairman thanked all the representers, representers' representatives and government departments' representatives for attending the meeting.

73. The meeting was adjourned at 7:10 p.m.