

1. The meeting was resumed at 9:10 a.m. on 19.5.2014.
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 P.P. Ho

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Ms Anita W.T. Ma

Dr W.K. Yau

Professor K.C. Chau

Mr H.W. Cheung

Mr Sunny L.K. Ho

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Ms Christina M. Lee

Mr Francis T.K. Ip

Mr Peter K.T. Yuen

Deputy Director of Lands (General)
Mr Jeff Y.T. Lam

Deputy Director of Environmental Protection
Mr C.W. Tse

Assistant Director (2), Home Affairs Department
Mr Frankie W.P. Chou

Director of Planning
Mr. K.K. Ling

Presentation and Question Session
[Open Meeting]

3. The following representatives of the Planning Department (PlanD) and the Agriculture, Fisheries and Conservation Department (AFCD), representers, representer's representative, commenters and commenters' representatives were invited to the meeting at this point:

Mr C.K. Soh	District Planning Officer/Shau Tin, Tai Po & North (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 & 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), (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

Representations in respect of Draft Hoi Ha OZP No. S/NE-HH/1, Draft So Lo Pun OZP No. S/NE-SLP/1 and Draft Pak Lap OZP No. S/SK-PL/1

R2342 - Stefan Behr-Heyder

HH-R10750 - Nicola Newbery

Mrs Nicola Newbery Representer and Representer's
representative

R9907 - Andy Cornish

Dr Andy Cornish Representer

Comments in respect of Draft Hoi Ha OZP No. S/NE-HH/1, Draft So Lo Pun OZP No. S/NE-SLP/1 and Draft Pak Lap OZP No. S/SK-PL/1

C263 - Ronald Taylor

Mr Ronald Taylor Commenter

C274 - Rosalind Kep

Mrs Jo Wilson Commenter's representative

C643 - Liu Su

Ms Liu Su Commenter

C1018 - Stefan Behr-Heyder

C1057 - Christian Hirth

C2529 - Karina O'Carroll

Mrs Nicola Newbery Commenters' representative

C1638 - 黃宇祺

C1787 – Nikki Suen

Mr Tony Nip, Commenters' representative
Kadoorie Farm & Botanic Garden

C2864 - Ruy Barretto S.C.

Mr Ruy Barretto S.C. Commenter

C3645 - David Newbery

Mr David Newbery Commenter

C3657 - The Hong Kong Countryside Foundation

Mr Edward Michael Commenter's representative
Southern Kilburn

Comments in respect of Draft So Lo Pun OZP No. S/NE-SLP/1

SLP-C3669 - Wong Hing Cheung

SLP-C3673 - 黃瑞強

SLP-C3675 - Margaret Wong

SLP-C3676 - Wayne C Wong

SLP-C3677 - Wong So Chun

Mr Wong Hing Cheung Commenter and Commenters'
representative

SLP-C3670 - Wong Yau Man

Mr Wong Yau Man Commenter

SLP-C3672 - Jane Wong

Ms Jane Wong Commenter

4. 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 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/or 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.

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

5. 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/commenters and their representatives 2 minutes before the allotted 10-minute time was to expire and when the allotted 10-minute time limit was up.

6. The Chairman said that the representatives of PlanD would be invited to make a presentation on the three draft OZPs. After that, the representers/authorized representatives would be invited to make oral submissions. After the oral submissions, there would be a question and answer (Q & A) session which Members could direct question(s) to any attendee(s) of the meeting. After the Q&A session, the commenters/authorized representatives would be invited to make oral submissions before another Q&A 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.

[Ms Christina M. Lee and Mr Clarence W.C. Leung returned to join the meeting at this point.]

7. The Chairman then invited Mr C.K. Soh, DPO/STN, PlanD, to brief Members on the representations and comments with respect to the Draft Hoi Ha Outline Zoning Plan (OZP) No. S/NE-HH/1 and the Draft So Lo Pun OZP No. S/NE-SLP/1. With the aid of a Powerpoint presentation, Mr Soh repeated the presentation that was made in the hearing session on 28.4.2014 as recorded in paragraphs 9 and 10 of the minutes of 28.4.2014.

[Mr Roger K.H. Luk and Mr H.W. Cheung left the meeting temporarily while Mr Dominic K.K. Lam and Ms Julia M.K. Lau returned to join the meeting at this point.]

8. After the presentation by Mr Soh, the Chairman then invited Mr Ivan M.K. Chung, DPO/SKIs, PlanD, to brief Members on the representations and comments with respect to the Draft Pak Lap OZP No. S/SK-PL/1. With the aid of a Powerpoint presentation, Mr Chung repeated the presentation that was made in the hearing session on 28.4.2014 as recorded in paragraph 11 of the minutes of 28.4.2014.

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

9. The Chairman then invited the representers and representer's representative to elaborate on their representations.

R2342 - Stefan Behr-Heyder

HH-R10750 - Nicola Newbery

10. With the aid of a Powerpoint presentation, Mrs Nicola Newbery made the following main points:

- (a) she first visited Hong Kong in 1966, emigrated to Hong Kong 20 years ago, studied environmental impact assessments and founded Friends of Ho Ha (FOHH) in 2003;
- (b) the natural landscape of the New Territories had changed a lot in the past years and the remaining areas in the country parks and marine parks were under development threats;
- (c) Hoi Ha was a site of outstanding natural beauty. It was a popular tourist destination and field trip site attracting 96,000 visitors a year. People came to swim, snorkel, kayak, scuba-dive, sail boats and study ecology. It had been made a Site of Special Scientific Interest in 1989 and a marine park in 1996. There were 64 species of hard stony corals in Hoi Ha. Protected birds, such as White-bellied Sea Eagle and Osprey and vulnerable Yellow Seahorses were found at Hoi Ha. A protected marine bird, Cormorant, visited Hong Kong in winters passing through the area. The river valley and Marine Park of Hoi Ha were biodiversity hotspots. The various natural features in Hoi Ha were valuable habitats of wildlife. They were:
 - (i) mangroves which formed the only colony in the world for a mangrove moth, *Eristena*, and provided nectar through the flowers grown in the mangroves for carpenter bees and wasp moths;
 - (ii) marshlands, which started at the coast, were full of fresh water

shrimps and covered in marsh plants which attracted insects, such as dragonflies and grasshoppers. Some of these marshes were seasonal marshes, which had been zoned “Village Type Development” (“V”) on the draft Hoi Ha OZP. There were frogs and hundreds of species of moths, including the *Erebus hieroglyphica* belonging to the Owllet Moth family, found in the seasonal marshes at Hoi Ha;

(iii) streams which flowed through the forests and marshes at Hoi Ha into the sea. Luxuriant vegetation was found on both banks of the main Hoi Ha stream. It was not understood why one side of the stream could be country park while the other side was zoned “V”. The main stream got rare species of fish and birds. Crabs also lived in the stream and protected orchid was found alongside the banks. Another stream ran parallel to the main Hoi Ha stream was a habitat for fish, shrimps and crabs;

(iv) forests which were described as abandoned agricultural land were found behind the marshes on the valley floor. They were 50 years old. There were champion trees, such as Banyan, lived in harmony with native epiphyte and the bracket fungus thrived on dead trees. A “fung shui” forest was found on the eastern part of Hoi Ha. It was a mature and relatively undisturbed forest covered with dense and tall trees and vines, including the protected species, *Aquilaria sinensis*. It was rich in flora and fauna, including India Muntjac deer, porcupines, leopard cats, wild boar, snakes, monkeys, beetles and ants. The forest was of high ecological value and was very important for maintaining biodiversity. The forest was recently proposed for a “Green Belt” (“GB”) zone as a reserve of building land. It was impossible to remove part of the forest without affecting the rest of it; and

(v) open canopy shrubland, which was habitat for hundreds of species of butterflies;

- (d) the ecological data provided by AFCD were poor. While AFCD's data on the flora and fish were acceptable, there was a big difference between the data of AFCD and those of the non-governmental organisations (NGOs) including the Hong Kong Wildlife, FOHH, Kadoorie Farm & Botanic Garden and Hong Kong Birdwatching Society, in respect of the number of species of butterflies, birds, moths and spiders found at Hoi Ha. The Government had ignored the ecological data of the NGOs. AFCD had not provided the required data for the Board to make planning decisions;
- (e) Hoi Ha was facing an environmental disaster. If development was allowed in the forest, tree would be felled and there would be nothing left in the river valley. It would herald the death of the Hoi Ha Wan (HHW) Marine Park since it was the forest that kept the sea clean and the corals healthy. Hoi Ha would become a monument to the Small House policy; and
- (f) Hoi Ha's habitats and biodiversity should be protected. The trees in the forests, the streams and the marshlands should respectively be protected from being felled, diverted and drained in order to save the marine park. There was more than enough room within the existing village for Small House development. Therefore, development should be confined to the existing village. The "fung shui" forest and the waterlogged wetland of Hoi Ha, and the coastal area should be zoned "Conservation Area" ("CA") and "Coastal Protection Area" ("CPA") respectively. 'Agriculture' should be put under Column 2 uses to deter 'destroy first, build later' tactics.

[Actual speaking time of R2342 and HH-R10750: 21 minutes]

R9907 - Andy Cornish

11. With the aid of a Powerpoint presentation, Dr Andy Cornish made the following main points:

- (a) he was a marine ecologist and had studied the reef fish community at Hoi Ha since 1995. The current land use proposals for Hoi Ha would be a

great threat to the coral community;

- (b) there were 84 hard coral species recorded in Hong Kong, more than those in the Caribbean. Coral community in Hong Kong was subject to natural stress of big annual temperature fluctuation, low salinity and low water clarity, which prevented the formation of true coral reefs;
- (c) in addition, human induced stress, such as pollution, had already led to a loss of a significant amount of corals in the inner Tolo Harbour;
- (d) although it appeared that Hoi Ha had a rich coral community, it was fragile and was limited to a small area which was three to four metres under the sea due to the light requirement for coral growth. Corals in Hoi Ha were also subject to bio-erosion. Mussels and sea-urchins drilled holes in corals. Over-fishing of blackspot tuskfish, which was a natural predator of sea-urchins, in Hong Kong had led to a sharp decrease in the population of the fish and a massive increase in the population of sea-urchins, causing damages to the coral community;
- (e) some fishes needed live coral to survive and coral communities were important nursery grounds for fishes such as snappers and groupers. The continued presence of corals would help support commercial fishery; and
- (f) another natural stress to the coral community was global warming, by which the coral reef systems could be eliminated by mid to late this century. In order not to aggravate the situation, commercial fishing should be forbidden in the marine park and developments in Hoi Ha should be restricted before an alternative sewage disposal system was in place to control the amount of pollution being discharged into the marine park. More than 40 village houses using septic tanks for sewage disposal would be a direct threat to the coral community.

12. As the presentation from the Government representatives, representers and a representer's representative had been completed, the Chairman invited questions from Members.

13. Two Members asked whether there would be land zoned for "V" in forest and marshland and whether Government department had any comments on septic tanks in the "V" zone. In response, Mr C.K. Soh said that the western part of the proposed "V" zone was occupied by relatively undisturbed woodland comprising mature trees and plant species of conservation concern. As advised by AFCD, this woodland was covered with trees regenerated through natural succession on abandoned agricultural land. After reviewing the latest evidence and based on the AFCD's advice, to minimise any possible adverse impact on the existing habitats, consideration could be given to revise the boundary of the "V" zone by excluding the relatively undisturbed woodland in the western part of the "V" zone and rezoning the area and the adjacent "GB" to "GB(1)". The proposed "GB(1)" zone was so designed to provide a higher degree of protection to the concerned woodland and wet agricultural land. At the same time, a piece of Government land mainly covered by small trees, shrubs and grass to the east of the village cluster could be considered for rezoning from "CA" to "GB" to reflect its current landscape character. Applications for Small House development within the "GB" zone might be considered by the Board on their individual merits.

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

14. Regarding the use of septic tanks and soakaway (STS) system, Mr Soh said that the design and construction of on-site STS system for any development proposals/submissions needed to comply with relevant standards and regulations, including the Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC PN) 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". The ProPECC also set out the design standards, including the requirement for soil percolation tests. These requirements would help identify the appropriate ground conditions suitable for the construction of septic tanks. As advised by EPD, in considering whether a site was suitable for septic tank construction, a number of site-specific conditions needed to be taken into account, which included proximity of rivers/streams, depth of ground water table, flooding risk, etc. These considerations had been taken into consideration in

preparing the OZP.

15. A Member asked about the distance between the beach and the northernmost boundary of the “V” zone, the number of existing houses in Hoi Ha and whether these houses were using septic tanks. In response, Mr Soh said that to the north of the “V” zone was a “CPA” zone covering the beach and other coastal features, and the distance of the northernmost boundary of the “V” zone to the northernmost boundary of the “CPA” zone fronting the Marine Park ranged from about 25 m to 40 m. There were currently about 30 houses at Hoi Ha. They were all served by septic tanks. The design of the septic tanks might vary according to the requirements prevailing at the time when the houses were built. For those that were built before ProPECC PN 5/93 was promulgated, they might not be able to meet the current standard.

16. A Member asked about the basis of estimating a Small House demand of 94, noting that there were only 7 Small Houses approved at Hoi Ha in the past 17 years. Mr Soh advised that the estimate was provided by the Lands Department (LandsD), which included 10 outstanding applications and 84 for the 10-year forecast. For the development of 94 Small Houses, about 2.35 ha of land would be required. As the available land of the revised “V” zone had been reduced to 1.02 ha, only about 40 Small Houses could be accommodated within the “V” zone. Another Member asked whether there was any rejected Small House application within the “V” zone. With the aid of a plan displayed on the visualizer, Mr Soh said that the rejection cases were all outside the “V” zone but still within the ‘village environs’ of Hoi Ha.

17. A Member noted that the representers emphasized the importance of looking at the ecosystem as a whole including the stream, the marshland, the inner sea area and the outer sea area. A change in part of the environment would have impacts on the remaining parts. Besides, the representers also opined that development would definitely bring about destruction to the environment. The Member asked if the Government shared the same views of the representers. The Chairman and another Member also asked if there was any test or standard on water quality available to indicate that the proposed further Small House development at Hoi Ha would be environmentally acceptable. In response, Mr Soh said that there was no dispute that Hoi Ha was an integral part of the larger ecosystem comprising the Hoi Ha proper and the surrounding country park and marine park. When preparing the OZP,

“CA” and “CPA” zones were designated to protect areas of high ecological and conservation value, such as the woodlands and the coastal area. As further information was collected, the woodland and wetland of conservation value to the west of Hoi Ha Village were proposed to be rezoned “GB(1)” for better protection. In addition, to ensure that village type development in the area would not impose unacceptable impacts on the marine park, the water quality there had been under close monitoring by EPD and AFCD through long-term water quality monitoring programme at the marine park. LandsD would also circulate Small House applications to relevant Government departments, including AFCD, EPD and PlanD for comments. The applicants had to demonstrate that the proposed developments would comply with the requirements of the relevant Government departments before they could be approved. Percolation test for proposed STS system would be one of the requirements for village type developments at Hoi Ha. As such, although land had been reserved for the development of 40 Small Houses, Small House applications would not be approved as of right by LandsD.

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

18. To supplement, Mr Alan L.K. Chan, SMP, AFCD said that the HHW Marine Park was ecologically significant. The importance of the marine park and its relationship with the surrounding environment as presented by the representers were generally correct. AFCD shared the same view that any development in the area should not bring about adverse impact on the water quality and ecology of the marine park. Discharge of sewage and effluent must also comply with the relevant statutory requirements. AFCD had expressed their views to PlanD when the draft Hoi Ha OZP was circulated for comment. At present, AFCD had three offshore stations within HHW Marine Park to monitor the water quality and ecological conditions of corals at the marine park since 1998. Long-term water quality monitoring close to the coral sites in the marine park indicated that the water quality was good as a whole. AFCD and EPD would continue to monitor the water quality of the HHW Marine Park.

19. A Member noted that there were discrepancies between the ecological data provided by AFCD and the NGOs, and asked whether the findings of the ecological survey of the NGOs would change AFCD’s views on the conservation value of the area. In response, Mr Cary P.H. Ho, SNC/S, AFCD said that in advising PlanD during the

preparation of the OZP, AFCD had emphasised more on the preservation of habitats with high conservation value rather than on records of individual species or specimens of conservation interest. Important habitats such as native woodlands and the riparian zone as well as the wetland, which could provide suitable habitats supporting a variety of species, were covered by conservation zonings. With the proposed rezoning of areas of woodland from “V” and “GB” to “GB(1)”, the percentage of conservation zonings at Hoi Ha would be increased from 68% to 74%.

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

20. In response to the Chairman’s question, Dr Andy Cornish said that he was not aware of any study which examined if the proposed “V” zone would cause an unacceptable impact on the water quality of the HHW Marine Park. Members should consider whether any impact assessments should be done to show that the use of septic tanks in this sensitive area was acceptable.

21. The Chairman asked for Dr Cornish’s view whether he considered the whole Hoi Ha Village, which was causing pollution to the area to a certain extent, should be relocated for the well being of the coral community in the marine park. In response, Dr Andy Cornish said that it was more appropriate to connect all the village houses to a primary sewerage system to stop reliance on septic tanks instead of relocating the village. There were engineering solutions to sewage disposal for future village houses. Mr David Newbery supplemented that ideally speaking, the village should be relocated because of the pollution concern but it would not be realistic to do. Given the small number of existing village houses, the pollution problem was not significant. However, the problem would be aggravated when the number of village houses was doubled or even more.

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

22. A Member asked if any water modelling had been done for HHW to ascertain that the water quality there met the relevant legislation or the requirements of technical memorandum under the Environmental Impact Assessment Ordinance, and whether bio-treatment of sewage had been considered. Mr C.K. Soh said that if the STS system was not suitable because of site characteristics or soil texture, there would be technical

alternatives, such as bio-treatment and the filter system adopted in public toilets in the country parks. Mr C.W. Tse, Deputy Director of Environmental Protection, supplemented that EPD had an interest in the water quality at Hoi Ha. To address the suitability issue of using STS system at specific locations, EPD had discussed that with LandsD. When Small House applications were processed, a certified percolation test would be required to confirm that the soil conditions of the application site were suitable for use of STS system. Failure to pass the test might result in rejection of the Small House application. Regarding assessment of water quality, AFCD had all along kept monitoring the water quality of the marine park. There were about 40 existing Small Houses in Hoi Ha. The quality of the main water body of the marine park had been very good and there was no evidence to show that an increase in the number of Small Houses would result in significant adverse impacts on the quality of the main water body of the marine park. EPD could take enforcement actions if any person failed to carry out proper maintenance of the septic tanks. Technically, the Small Houses could adopt alternative sewage treatment technologies which, however, would be more costly. Mr Alan L.K. Chan added that AFCD would continue to monitor the water quality of HHW and pass the data to EPD for interpretation and follow-up actions.

23. A Member noted that “fung shui” forest was part of the heritage of the Hakka clan and asked whether consideration should be given to retaining the “CA” zoning of the concerned part of the “fung shui” forest (proposed to be rezoned to “GB” by PlanD) to allow the forest to recuperate from its previous disturbance and thereby preserve the integrity of the forest. Otherwise, future Small House development in the part would lead to fragmentation of the forest. In response, Mr C.K. Soh said that there was some overlapping of the proposed “GB” zone and the “fung shui” forest. However, in view of the current landscape character, the proposed “GB” zoning for the disturbed forest was considered appropriate. The Board might consider Small House applications under section 16 of the Town Planning Ordinance based on individual merits under the “GB” zoning, and those involving felling of trees would not be recommended for approval.

24. A Member said that although the Small House policy was to cater for the housing need of the indigenous villagers, there were non-indigenous villagers living at Hoi Ha. The Member asked about (a) the number of indigenous and non-indigenous villagers living at Hoi Ha at the moment; (b) the original purpose of building Hoi Ha Road; and (c) the impacts of the 96,000 people visiting Hoi Ha annually on the water quality of HHW.

Regarding the Small House policy, Mr Jeff Y.T. Lam, Deputy Director of Lands, advised that only indigenous villagers were allowed to submit Small House applications. Applicants had to comply with the requirements of the relevant Government departments before the applications would be approved by LandsD. Small House grants could be in the form of a building licence or a private treaty grant which would be subject to a five-year and a perpetual non-assignment restriction respectively. Any proposed assignment within the non-assignment period would require approval from LandsD to remove the restriction and premium payment. Thus, the owner of a Small House could be a non-indigenous villager after assignment. In response to the Member's questions on Hoi Ha Road, the visitors to Hoi Ha and the number of indigenous villagers living at Hoi Ha, Mr C.K. Soh said that Hoi Ha Road was constructed for a water supply facility and not intended particularly for the development of the area. The water sports activities carried out by visitors would inevitably bring about some pollution to the sea. However, the data provided by AFCD indicated that the overall water quality of HHW was good. Regarding the number of indigenous villagers living at Hoi Ha, no exact figure was readily available but it was noted that there were many non-indigenous residents.

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

25. Regarding the number of indigenous and non-indigenous villagers, Mrs Nicola Newbery supplemented that there were 30 houses at Hoi Ha. The non-indigenous villagers outnumbered the indigenous villagers by about five to one. None of the houses that were built in the last seven years was occupied by indigenous villagers. As for the impact of the visitors, she said that the sea would be made frothy by non-biodegradable detergents used by visitors on busy days. AFCD did not monitor the water quality close to the shore and said that there was no pollution in the sea. For Hoi Ha Road, it was constructed in the 1980s when the High Island Reservoir was built to provide access to a water pumping station.

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

[Mr Roger K.H. Luk returned to join the meeting, Mr Clarence W.C. Leung left the meeting, and Ms Julia M.K. Lau and Mr Frankie W.P. Chou left the meeting temporarily at this point.]

26. The Chairman invited the commenters and commenters' representatives to

elaborate on their comments.

C263 - Ronald Taylor

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

- (a) he was a hiker enjoying the country parks of Hong Kong for 40 years;
- (b) Hoi Ha, So Lo Pun and Pak Lap were bordered by country parks. Changes to the village size in the areas would have an impact on the adjacent country parks. A buffer area should be in place to protect the country parks from the adverse impact of village type developments. The “CA” zones surrounding the “V” zones on the OZPs were insufficient to act as proper buffer areas to protect the country parks;
- (c) the Director of Agriculture, Fisheries and Conservation (DAFC) acting as the Country and Marine Parks Authority under the Country Parks Ordinance, had the duties, amongst others, to take measures in respect of country parks and special areas as he thought necessary to encourage their use and development for the purpose of recreation and tourism; and to protect the vegetation and wildlife inside the country parks and special areas;
- (d) regarding Hoi Ha, any development within the “V” zone would attract traffic on Hoi Ha Road which traversed through the country park. The increased traffic generated by residents would be detrimental to the country park users. The agricultural land, either be used for agriculture or allowed for nature to reclaim, at Hoi Ha should serve as a buffer between the “V” zone and the country park instead of putting up for development to reduce the value of the country park;
- (e) a planned population of 590 persons at Hoi Ha was misguided as the 2011 population was only 110. In the past 18 years, there were only 7 Small

Houses approved in the area. Many of the Small Houses were not occupied by indigenous villagers. There had been an abuse of the intent of the Small House policy;

- (f) with respect to So Lo Pun, there was no one living in the area in 2011. A demand of Small House developments for a population of 1,000 people was inconceivable. There were no access road and no public sewerage system at So Lo Pun. Water supply to the area was limited. Provision of such infrastructural facilities to the area would cause adverse impacts on the country park. There was a danger that any development at So Lo Pun would become an abandoned eyesore like an existing residential development on the Chi Ma Wan peninsula. If the proposed “V” zone was the first step to create a commercial resort in the area, there was every reason not to create a large “V” zone for 134 houses. Any development should be restricted to the existing structures;
- (g) in respect of Pak Lap, it was surrounded by the country park on all sides. Any access or provision of infrastructural services to the area must pass through the country park and was bound to impact on the value of the country park. The planned population of 230 was five times the reported population in 2011. It was suspicious whether the planned population was a population of weekend visitors for a commercial resort. Given that the Government had succeeded in deterring the “destroy first, build later” tactics of a developer earlier in Pak Lap, there was no justification to allow the developer or his successor to develop Pak Lap at the expense of the surrounding country park; and
- (h) incorporating all the three enclaves into the relevant country parks would be an effective measure to stop the “destroy first, build later” approach of developers.

[Actual speaking time of C263: 14 minutes]

28. With the aid of a Powerpoint presentation, Mrs Jo Wilson made the follow main points:

- (a) she was the Chairperson of Living Lamma, a group campaigning for improvement to Lamma's environment and facilities since 2009;
- (b) although Hoi Ha and Lamma were at opposite ends of Hong Kong, they had characteristics in common. It would be useful to share the experience of Lamma as, without care and attention, Hoi Ha might follow the same path leading to the situation which Lamma faced;
- (c) Lamma had stunning scenery. The rehabilitated former quarry had become a nature park and South Lamma was magnificent. Like Hoi Ha, Lamma was facing significant development pressure. A consortium of developers had bought up seven areas on Lamma and was in the course of seeking planning approval for development;
- (d) land in the rural New Territories had become shabby and unproductive because of land banking and fencing off of government land from unauthorized uses, leaving land derelict. The chaotic Small House developments and the lack of suitably planned facilities also played a part. Provision of public facilities, whether in urban or rural areas, was based on standard design and procedures. All these were making it quite impossible in some cases for residents and visitors to enjoy a clean and safe living environment, let alone the obvious threats to nature;
- (e) Hoi Ha, with mangroves and coral habitats, was like Lamma an area of ecological importance. But the ability to protect the ecology there was in serious doubt. The overall impression of the area was one of neglect. Places of ecological importance in Hong Kong, such as an habitat for Romer's tree frog and the nesting ground for the green turtles on Lamma, had either become dumping grounds or been closed year round not being used for educational purpose or for creating local employments;

- (f) failure of planning had entailed not only dumping in many places, such as on beaches, but was also coupled with the lack of effective measures to instil environmental responsibility in people to change their habits. The standards of site management and waste disposal were very low;
- (g) a town planner had once demonstrated ways to introduce community recycling facilities and develop the waterfront on Lamma so that its natural features could be retained and enhanced. However, the suggestion was ignored in favour of a concrete reclamation that destroyed the natural coast; and
- (h) it might have been satisfactory to ignore sustainability 20 years ago. However, the environment had deteriorated to such an extent that sustainability could no longer be neglected. Members were invited to visit Hoi Ha, So Lo Pun and Pak Lap which were under threat or suffering from outdated planning procedures before making a decision about the future of the enclaves. Following standard design and procedures, and making decisions without visiting the places were not appropriate.

[Actual speaking time of C274: 12 minutes]

C643 - Liu Su

29. Ms Liu Su made the following main points:

- (a) although the Government had made progress in protecting the enclave in the country park in the Sai Wan incident, the current development proposals on the OZPs were backward moves that neglected the conservation needs of the areas. Decisions on the land uses in these areas should be made after serious consideration to regain the trust of the community;
- (b) there were loopholes and fundamental flaws in the Small House policy. Before a decision on meeting the unceasing Small House demand with

limited land resources was made, the Small House policy should be implemented sustainably. Besides, it was doubtful whether the projected Small House demand for the areas concerned was genuine. A holistic, instead of a piecemeal, approach to tackle the Small House problem should be adopted;

- (c) the country parks were established for conservation purpose. The ecology of these areas should be safeguarded and not to be compromised;
- (d) currently, about 70 to 80% of Hong Kong's water supply was imported from Mainland. To secure a local supply of fresh water, preserving the naturalness of the country parks as well as the enclaves was very important; and
- (e) development should not be at the cost of future generations. As shown in the satellite image on the visualizer, the changes of landscape in Hong Kong and Shenzhen in the past years had been significant. The future generations' right to the natural environment should not be sacrificed by the current development proposals.

[Actual speaking time of C643: 8 minutes]

C1018 - Stefan Behr-Heyder

C1057 - Christian Hirth

C2529 - Karina O'Carroll

30. With the aid of a Powerpoint presentation, Mrs Nicola Newbery made the following main points:

- (a) Hoi Ha was an enclave surrounded by the country park and the marine park. It was a Site of Special Scientific Interest. The "V" zone of Hoi Ha also sat on a site of archaeological interest. Artefacts found were dated back to the Stone Age;

- (b) Hoi Ha was a biodiversity hotspot rich in habitats. There were beaches, mangroves, intertidal area and marine habitats providing homes for plants and animals, fish, birds and insects. There were rare species of flora and fauna which could only be found at Hoi Ha but nowhere else in Hong Kong or in the world;
- (c) the undersea world at Hoi Ha was fascinating. It would be in the public interest to conserve this natural environment;

“CA” zoning for forest

- (d) Hoi Ha had forest in the valley and on the hillsides. The Hoi Ha main stream ran through the forest into the sea. The area between the main stream and Hoi Ha Road used to be paddy fields 50 years ago. After the villagers left in the 1970s for overseas, the nature reclaimed the paddy fields. The areas which had now become forest were zoned “V”. There was another stream near the roundabout of Hoi Ha Road but it was not marked on the planning map prepared by PlanD;
- (e) there were marshlands at Hoi Ha, both seasonal and permanent marshes. They drained onto the beach and then into the sea. They were full of wildlife;
- (f) the “fung shui” forest, which was zoned “CA”, was currently proposed to be rezoned to “GB”. The “GB” zone provided no protection to the natural habitats and was not justified. There was no disturbed tree and the forest was impenetrable. The open canopy shrubland found in the forest was natural because there was a boulder bed. The massive boulders had prevented trees from growing on them;
- (g) with Hoi Ha being zoned for development and as a “GB” for future building land, it contravened the Convention on Biodiversity that Hong Kong had signed, in which it stipulated that land adjacent to protected areas, such as marine park and country park, should be protected from development;

‘Agricultural Use’ under Column 2

- (h) the usual tactic of developers was to destroy anything of ecological value first and then develop later. They would bulldoze the forest, clear the land, drain the marshes and divert the streams to establish a temporary farm or market garden. Then, they would apply to build on the degraded land since the land was no longer of ecological value;
- (i) the reason why Hoi Ha had exceptionally good coral coverage was that the water was clean and unpolluted. It was the forest and the marshland that kept the sea clean. By removing the forest, diverting the streams and draining the marshland, the valley would be covered in bare soil, which would be washed into the sea and killed the corals when it rained. Besides, pesticides, herbicides and fertilizers used in farming would be washed off into marshland, streams and into the sea to kill life in these habitats;
- (j) ‘Agricultural Use’ should be put under Column 2 of the Notes. There was no longer any farmland at Hoi Ha. Nature had reclaimed what used to be farmland when the villagers emigrated to the United Kingdom in the 1970s and changed the river valley back into habitats. There were 50-year old forest, marshland, and open-canopy shrubland. Putting ‘Agricultural Use’ under Column 2 would not stop farming, which could still be allowed upon application;

Small House development inappropriate

- (k) the abuses of the Small House policy and rezoning for development had replaced fishing as the greatest threat to the marine park;
- (l) there was no access for emergency vehicles and no parking at Hoi Ha. There was no town planning for village type developments. The houses did not conform to the building regulations. Waste water, which was not monitored nor treated, from Hoi Ha village houses went directly into storm drains and then into the sea. On a busy day, the sea at Hoi Ha was frothing and foaming with detergents and shampoo used by visitors to wash themselves and their dogs after bathing in the sea;

- (m) the river valley for Small House developments was a waterlogged flood plain with streams overflowing their banks in the rainy season. It was a habitat for marshland water plants;
- (n) the use of septic tanks to discharge effluents was not environmentally friendly. Flooded areas were not suitable for building or for siting septic tanks. The water table of the “V” zone was high and the area was prone to flooding during storms;
- (o) with the use of septic tanks, bleaches, non-biodegradable detergents, E-coli and endocrine disrupting compounds (EDCs) would be discharged into the marshes, streams and sea. Toxic waste would accumulate in the lagoon. Life in the streams, marshland and intertidal areas would be killed or damaged and EDCs would interfere with the sexuality of fish in the marine park. The mangroves and marine life would be adversely impacted by waste from additional septic tanks; and
- (p) Hoi Ha had some of the cleanest waters in Hong Kong because of the surrounding forest and streams which kept the marine life, including the mangroves and corals, in good shape. It was a favourite spot for tourists and field trips. To protect the environment, zoning the area “CA” or “CPA” was the minimum. Hoi Ha should be saved for future generations.

[Actual speaking time of C1018, C1057 and C2529: 30 minutes]

31. The meeting was adjourned for lunch break at 1:00 p.m.

32. The meeting was resumed at 2:30 p.m. on 19.5.2014.

33. 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

Professor S.C. Wong

Mr Roger K.H. Luk

Professor K.C. Chau

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr. Sunny L.K. Ho

Mr Patrick H.T. Lau

Mr F.C. Chan

Mr Francis T.K. Ip

Mr Peter K.T. Yuen

Deputy Director of Environmental Protection
Mr C.W. Tse

Director of Lands
Ms Bernadette H.H. Linn

Director of Planning
Mr K.K. Ling

Presentation and Question Session

[Open Meeting]

34. The following representatives of the Planning Department (PlanD) and the Agriculture, Fisheries and Conservation Department (AFCD), the commenters and the commenters' representatives were invited to the meeting at this point:

- | | | |
|--------------------|---|--|
| Mr C.K. Soh | - | District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD |
| Mr Ivan M.K. Chung | - | District Planning Officer/Sai Kung and Islands (DPO/SKIs), PlanD |
| Mr David Y.M. Ng | - | Senior Town Planner/Country Park Enclaves (STP/CPE), PlanD |
| Mrs Alice K.F. Mak | - | Senior Town Planner/Sai Kung (STP/SK), PlanD |
| Ms Lisa Y.M. Chau | - | Town Planner/Sai Kung (TP/SK), PlanD |
| Mr Cary P.H. Ho | - | Senior Nature Conservation Officer (South) (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 |

Comments in respect of Draft Hoi Ha OZP No. S/NE-HH/1, Draft So Lo Pun OZP No. S/NE-SLP/1 and Draft Pak Lap OZP No. S/SK-PL/1

C1638 – 黃宇祺

C1787 – Nikki Suen

Mr Tony Nip, - Commenters' representative
Kadoorie Farm &
Botanic Garden

C2506 – Damian Ryan

C2535 – Renia Lopez

Ms Debby Chan, - Commenters' representative
Designing Hong Kong Ltd.

C2864 – Mr Ruy Barretto S.C.

Mr Ruy Barretto S.C. - Commenter

C3645 – Mr David Newbery

Mr David Newbery - Commenter

C3657 – The Hong Kong Countryside Foundation

Mr Edward Michael - Commenter's representative
Southern Kilburn

Comments in respect of the Draft So Lo Pun OZP No. S/NE-SLP/1

SLP-C3669 – Wong Hing Cheung

SLP-C3673 – 黃瑞強

SLP-C3675 – Margaret Wong

SLP-C3676 – Wayne C. Wong

SLP-C3677 – Wong So Chun

Mr Wong Hing Cheung - Commenter and Commenters' representative

SLP-C3670 – 黃佑民

Mr Wong Yau Man - Commenter

SLP-C3672 – Jane Wong

Ms Jane Wong - Commenter

35. The Chairman extended a welcome and invited the commenters and commenters' representatives to elaborate on their comments. For the efficient conduct of the meeting, the Chairman asked the commenters and their representatives not to repeat unnecessarily long the same points that had already been presented by previous representers/commenters.

C1638 – 黃宇祺

C1787 – Nikki Suen

36. With the aid of a Powerpoint presentation, Mr Tony Nip, Kadoorie Farm & Botanic Garden (KFBG), made the following main points:

- (a) he suggested that Members could look at the Powerpoint presentations made by him, as representative of KFBG (HH-R10883, SLP-R10821 and PL-R10739), at the hearing session on 8.5.2014, in particular regarding the problem of the Small House policy, landownership issue (i.e. majority of the land within "V" zone in Hoi Ha and Pak Lap were owned by development companies), the rare species recorded in the three country park enclaves (CPEs) (e.g. the living fossils (*Amphioxus*) in Pak Lap Wan, seagrass bed in So Lo Pun) and the undesirable "destroy first, reward later" approach adopted by the Board;

[Mr Roger W.H. Luk returned to join the meeting at this point.]

- (b) all three CPEs in Hoi Ha, Pak Lap and So Lo Pun had close relationships with water. Hoi Ha Wan (HHW) was an existing Marine Park whereas Pak Lap Wan was a proposed Marine Park with living fossils. In So Lo Pun, there were freshwater wetland, mangrove, reedbed and seagrass bed,

with Yan Chau Tong Marine Park nearby;

- (c) as shown in the two case studies of Lung Mei in Tai Po and Ma Wan New Village on Lantau Island in the previous presentation on 8.5.2014, the development of Small Houses had generated waste waters and pollutants which were illegally discharged to the nearby stream and sea;
- (d) there were currently 76 Small Houses in Ma Wan New Village using septic tank systems and about 3 to 4 restaurants operating in the village. According to the data from the Environmental Protection Department (EPD), the level of *E. coli* and *Faecal coliforms* in nearby streams 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 water quality was as poor as those of Tin Shui Wan Channel, Yuen Long Nullah and Tuen Mun River and worse than that of Shing Mun River. The levels of pollution increased with the sharp increase in Small House developments from 1998 to 2011. Illegal underground drainpipes were built and connected with nearby streams to discharge waste waters. It was a common situation in the nearby villages;
- (e) as presented by a geologist at the previous hearing, the use of septic tanks and soakaway (STS) system was not feasible in Hoi Ha, Pak Lap and So Lo Pun which were situated in floodplains;
- (f) according to a study conducted by seven HKU professors on the levels of *E. coli* at HHW, it was shown that the coastal water at HHW was already highly polluted. Endocrine disrupting chemicals were also found in the coastal water. Such pollution was caused by human activities;
- (g) there were 30 existing Small Houses in Hoi Ha. According to the Outline Zoning Plan (OZP), there would be 40 new Small Houses in the future. For Pak Lap and So Lo Pun, there would also be 79 and 134 new Small Houses respectively. The increase in Small House developments would

have serious impact on the water quality;

- (h) the EPD Practice Notes for Professional Persons (ProPECC PNs) and the existing enforcement mechanisms did not prevent pollution nor protect water quality in “Village Type Development” (“V”) zones. PlanD could not ensure that there would be no pollution to the ecosystems near “V” zones. The problems raised in the representations had not been addressed directly in the TPB papers by PlanD;
- (i) the STS system was a source of water pollution and not a solution to sewerage problem in village areas. This was indicated by various statements made by the Government in the Legislative Council (LegCo) and its committee meetings as follows:

- (i) Pollution of streams (26.1.2005): the then Secretary for the Environment, Transport and Works stated that “as the base flow of local rivers and streams is generally small, their assimilative capacity is therefore low. This, coupled with the continued development and hence population growth in the river catchments, as well as the lack of maintenance of many private septic tank systems, has caused the water quality of some rivers and streams... to remain unsatisfactory.”;

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

- (ii) Yuen Long and Kam Tin sewerage and sewage disposal (December 2005): the then Environment, Transport and Works Bureau stated that “village sewerage is part of the Government’s sewerage provision programme to improve the village environs and sanitary conditions of the unsewered areas in the New Territories. In the unsewered areas, village houses usually use septic tank and soakaway systems for their sewage disposal. These systems are susceptible to operation and maintenance problems which could easily cause pollution of the environment and pose potential health hazards to the villagers or the

nearby public.”; and

- (iii) Yuen Long and Kam Tin sewerage and Lam Tsuen Valley sewerage (28.5.2012): EPD and the Drainage Services Department (DSD) stated that “at present, sewage from a number of village areas in Yuen Long and Kam Tin is often treated and disposed of by means of private on-site treatment facilities (such as STS systems). Such facilities might however become ineffective due to their proximity to watercourse or inadequate maintenance. Sewage from such areas has therefore been identified as a source of water pollution to nearby watercourses and the receiving waters of Deep Bay. The aforesaid situation will persist unless sewerage infrastructure is made available to collect and treat sewage from the areas concerned properly. STS systems operate by allowing the effluent to percolate through gravels whereby pollutants are removed in a natural manner. However, if a STS system is located in an area where the ground water table is high, such as an area in proximity to watercourse, it will not function properly due to ineffective percolation. Inadequate maintenance of STS system would affect their pollutant removal efficiency and might even lead to overflow of effluent.”

[Mr F.C. Chan returned to join the meeting at this point.]

- (j) under EPD’s Guidance Notes on Discharges from Village Houses, the user of a STS system was required to inspect, desludge and repair his STS system. As such, regular desludging was essential for the maintenance of a septic tank. However, many CPEs, including So Lo Pun and Pak Lap, were not served by roads so that the desludging vehicles could not access to those areas. Even though there was an access road to Hoi Ha, not every village house there could be desludged by vehicles. The health requirement of village houses were not enforced;
- (k) according to the same EPD’s Guidance Notes, a STS system was not

feasible in areas prone to flooding during storms, or with high groundwater table. However, ground water table was high in Hoi Ha, Pak Lap and So Lo Pun, even in dry season. They were also situated at river valleys prone to flooding during storms. As shown by some recent photos during rain storms, flood waters overflowed in Hoi Ha;

- (l) in gist, there was no evidence to justify PlanD's proposed solution of constructing many new STS systems in the "V" zones of the three CPEs to resolve the water pollution problem as there was no existing or planned sewer and it was not possible to provide sewer in the foreseeable future or proper maintenance for the STS systems. There were highly sensitive aquatic ecosystems in the three CPEs which were highly vulnerable to water pollution and also too many country park visitors. The current planning of the OZPs would only lead to pollution in the country parks. On the other hand, if the Government considered that STS system should not be used in these areas, it should be stated clearly in the OZPs;

- (m) although enforcement action by EPD was said to be one of the measures to deal with unauthorised sewage discharge, the following four actual cases showed that there were continued water pollutions despite some enforcement efforts had been made:
 - (i) Case 1 – Pollution in Kam Tin River: a television programme of 21.1.2010 investigated the issue of stream pollution and used Kam Tin River as an example. A tributary of Kam Tin River was suspected to be seriously polluted by the discharge from a food factory although the factory did not admit that. In a reply to LegCo in 2009, EPD mentioned that, since 2006, for water pollution cases related to food factories in the Northwest New Territories, 211 site inspections plus 81 night-time inspections had been carried out, but only six successful prosecutions were done. A resident said that even though 7 to 8 departments, including DSD, EPD, AFCD, Lands Department (LandsD) and PlanD, with some 20 people had attended a

joint site visit, EPD could do nothing and the Government so far could not solve the water pollution problem. From the photos taken in 2014, it was shown that the tributary was still extremely polluted and there was still not much improvement;

- (ii) Case 2 – Pollution in River Beas: Apple Daily reported on 22.5.2005 that the water pollution problem in River Beas had greatly affected the farmers in a village in Sheung Shui. The farmers had filed complaints to EPD and AFCD, but nothing changed. The farmers only demanded clean river water and they said the enforcement action of EPD was not effective. EPD replied that about 69 site inspections were carried out within 17 months, and four warning letters were issued. However, as the factories did not discharge sewage during EPD's inspection, the pollutants in the sewage samples collected did not exceed the legal standards and no prosecution could be made;

- (iii) Case 3 – Pollution in a stream on Hong Kong Island: Apple Daily reported on 2.6.2013 that a M.Phil. student of the University of Hong Kong observed that one of her stream sampling sites was polluted. The situation prevailed and she reported the case to EPD. The student also contacted the Ecological Advisory Programme of KFBG. She and KFBG both followed up the case with EPD. Some site visits were carried out and some 'warning letters' were issued by EPD to the nearby construction sites/renovation sites, but no one was prosecuted directly for causing water pollution. Finally, the student needed to abandon that site which was greatly affected by the pollution and was no longer suitable for her study; and

- (iv) Case 4 – Pollution in Deep Water Bay stream: in 2009, serious pollution was observed in the stream, which was an ecologically important stream. There was a construction site nearby. He complained the situation to EPD immediately. Prompt action was taken but no one was prosecuted after investigation as no muddy

water discharge was noted from the nearby construction site to the streamcourse during EPD's inspections. Pollution at the stream was observed again in 2010, 2012 and 2013 and he reported to EPD after each observation. While prompt action to investigate the cases was undertaken by EPD, no one was prosecuted;

- (n) regarding the enforcement under the Water Pollution Control Ordinance on stream pollution, the then Secretary for the Environment, Transport and Works said on 26.1.2005 in LegCo that "... as regards law enforcement, the front-line staff of EPD have indeed encountered considerable difficulties. A major reason is that according to the prevailing legal principles and law requirements, our enforcement staff have to collect valid effluent samples as evidence for prosecution. However, as illegal discharges can often be completed in a few minutes, it is very difficult to catch the culprits red-handed and collect evidence on the spot, which results in prosecution difficulties." Despite complaints and efforts, pollution was not prevented but continued. The best solution to the pollution problem was to put less or none pollution sources to the CPEs;
- (o) the proposed "V" zones in the three OZPs would affect their surrounding "Green Belt" ("GB") and "Conservation Area" ("CA") zones, the downstream areas and even the country parks outside the OZPs. There were streamcourses and wetland in So Lo Pun. The "V" zone of Pak Lap encompassed a stream. HHW was a Marine Park with many streamcourses. To merely monitor the performance of the STS systems and the pollution situations in these CPEs was not a solution as some of the problems might not emerge immediately. It was not possible to stop Small House developments, which was the major source of pollution, if the villagers were entitled to develop such within the "V" zones;
- (p) when Application No. A/NE-LYT/437 for 11 proposed Small Houses in the "Agriculture" ("AGR") zone at Leng Pei Tsuen, Fanling was considered by the Rural and New Town Planning Committee (RNTPC) on 8.7.2011, both

EPD and AFCD did not support the application. EPD indicated that they would tolerate the use of STS systems by a proposed development covering not more than 10 Small Houses as an interim measure for sewage disposal before public sewer was available. However, as the proposed development involved 11 Small Houses, EPD would not tolerate the use of STS systems as the development with such a scale would have a higher potential to cause pollution. Nevertheless, when a Member asked if the proposed 11 Small Houses were covered by separate applications, whether EPD would tolerate the use of septic tanks by these Small Houses, EPD only gave an arbitrary reply. Members then considered that if the proposed Small Houses submitted under separate applications would be approved, that application for 11 Small Houses could also be approved. From this case, it could be expected that the Board would not be able to guarantee that the 40 reserved Small Houses at Hoi Ha would not be approved one by one or even all at a time;

- (q) the green groups had been compromising with proposed developments in the rural areas over the past few years, such as in the Frontier Closed Area and the North East New Territories. The Government was also proposing to develop Lantau Island and Yuen Long South. Some of the proposed development areas of the CPEs were at the outskirts or even in the middle of country parks. There was no way for the green groups to further compromise;

[The Vice-chairman returned to join the meeting at this point.]

- (r) he wondered whether the Board would keep using the incremental approach to allow developments in the CPEs, say if the villagers asked for 1,000 Small House sites, the Board would give them 500 sites. Although the Board might argue that the village areas being reserved were based on the demand from lists of genuine eligible male indigenous villagers, in the case of Tai Long Wan, the “V” zone designated by the Board only covered the existing village area even though the villagers had provided a name list of

eligible villagers to the Board; and

- (s) in conclusion, the “V” zones designated in the three OZPs were all not justifiable in that their extents were rebutted by scientific evidence from the experts; the data from EPD demonstrated that a single Small House could lead to great deterioration in stream water quality; the geology and water table levels of the sites were not duly taken into account; the ProPECC PNs, the existing enforcement mechanisms and the proposed monitoring of situations were all ineffective in preventing water pollution; and the zonings were against the majority view of the public and not in line with the previous practice for Tai Long Wan. It should be noted that the preparation of Development Permission Area (DPA) plans for the Hoi Ha, So Lo Pun and Pak Lap areas was due to the destruction activities such as vegetation and site clearance being detected in these areas some years ago that statutory planning control was considered necessary to stop the deteriorations. It was hoped that the Board would keep its pledge of not tolerating any “destroy first, build later” activities, and would not approve the three OZPs by ignoring the evidence presented and the public view.

37. The Chairman said that the videos of the first three hearing sessions on the representations in respect of the three OZPs held on 28.4.2014, 8.5.2014 and 12.5.2014, including the presentations of Mr Tony Nip, as representative of KFBG (HH-R10883, SLP-R10821 and PL-R10739), in the previous session on 8.5.2014, had already been distributed to Members for reference.

[Actual speaking time of C1638 and C1787: 36 minutes]

C2506 – Damian Ryan

C2535 – Renia Lopez

38. With the aid of some documents, Ms Debby Chan, Designing Hong Kong Limited (DHKL), made the following main points:

- (a) DHKL supported the proposed amendments to the three draft OZPs suggested by Mr Tony Nip on 8.5.2014;
- (b) the Government had since 1991 recognised the need to protect the CPEs from development. The Tai Long Sai Wan incident in 2010 revealed that 54 CPEs, which were physically, ecologically, recreationally and landscape-wise integrated as parts of country parks, remained unprotected as they were neither included in country parks nor covered by statutory town plans. These CPEs were not designated as country parks at the outset as there were active farming activities and a very small number of inhabitants in these areas;
- (c) the Government had repeatedly confirmed the need to protect the CPEs with high landscape, ecological and aesthetic value, including the incorporation of the CPEs into country parks. Tai Long Wan, which was a CPE within Sai Kung East Country Park, was covered by an OZP in 2004, with a general presumption against development except retaining the existing village areas. It was explicitly stated in the OZP that “to safeguard the natural and heritage features and to minimise human disturbance to the sensitive and tranquil environment in Tai Long Wan, only the existing village areas are covered under the “V” zones. Additional future demand for Small House development by the indigenous villagers under the Small House Policy would have to be addressed outside the Tai Long Wan area”;
- (d) in 2010, 23 out of the total 77 CPEs were covered by OZPs. For the remaining 54 CPEs, DPA plans were prepared for such areas as Tai Long Sai Wan, Hoi Ha, So Lo Pun and Pak Lap in order to address the imminent development threat in these four areas. Nevertheless, after 3 years, despite the advocacy of AFCD and the Country and Marine Parks Board (CMPB) that the CPEs should be protected, only Tai Long Sai Wan, which was described by AFCD and EPD as an area not outstanding in ecological value but with high landscape and aesthetic value, was incorporated into country

park whilst Hoi Ha, So Lo Pun and Pak Lap were not. Indeed, Hoi Ha, So Lo Pun and Pak Lap had much higher ecological values than Tai Long Sai Wan and their recreational values were comparable to Tai Long Sai Wan. The three areas should also be incorporated into country parks for better protection;

- (e) it was discovered that the Government had held secret meetings with Heung Yee Kuk (HYK) since 2011 to communicate and consult HYK on the proposed measures for protecting the CPEs. After that, AFCD told the public that the CPE was not compatible with the surrounding country park area owing to its existing land use and development potential. The policy had been shifted from protecting the CPEs to allowing development within them. In 2014, it was further discovered that AFCD had not conducted any assessment of the cumulative impacts of increasing population in country parks and CPEs, and AFCD always responded that they were not responsible for the development issues within the CPEs. However, it was stated in the Audit Report of 2013 that AFCD should be responsible for undertaking the preliminary assessment on the number of enclaves to be incorporated into country parks and the detailed assessment on which enclaves were suitable for incorporation into country park, but AFCD had done nothing;
- (f) if Small House developments were allowed in the Hoi Ha, So Lo Pun and Pak Lap areas under the three OZPs with the use of STS systems and construction of new access roads, the ecological values of the three areas would greatly diminish. AFCD might then conduct the assessments based on the diminished ecological values and conclude that the three areas were not suitable for incorporation into country parks. It was noted that AFCD had only conducted assessments of the conservation, landscape, aesthetic and recreational values for those CPEs that were not covered by OZPs so far; and
- (g) Small House developments in the CPEs would bring in residents and cause

different impacts, including destruction of habitats, water pollution, demand for road and transport facilities, tree felling and loss of vegetation, hillside erosion, light pollution, fire risk, poaching risk and waste generation. Hoi Ha, So Lo Pun and Pak Lap were the first three CPEs among the 54 outstanding CPEs that OZPs were prepared. If a large number of Small Houses were allowed in these three OZPs and the subsequent OZPs to be prepared, an assessment of the cumulative impacts should be conducted by AFCD. The value of country parks stemmed from their extensive coverage and continuity. The development impacts of the CPEs could not be isolated from the country parks.

[Actual speaking time of C2506 and C2535: 15 minutes]

C2864 – Mr Ruy Barretto S.C.

39. Mr Ruy Barretto S.C. tabled a document to elaborate his views for Members' reference and made the following main points:

- (a) PlanD's papers presented an air of unreality as they failed to address the real issues raised in the representations in terms of the planning and legal defects and the problems that the draft OZPs would cause. PlanD had roughly paraphrased some of the issues but generally the papers had not addressed the representations with valid reasons or evidence because PlanD had no valid answer to the points made on the breaches of policy, principles, precedent and law that the draft OZPs would cause. PlanD or the Government was unable to justify the draft OZPs in respect of the excessive "V" zones and the inadequate zonings for conservation;

[Mr Patrick H.T. Lau returned to join the meeting at this point.]

- (b) further to the proposed amendments to the three OZPs presented to the Board at the hearing session on 8.5.2014, some refinements on the general planning intention paragraphs of the So Lo Pun and Pak Lap OZPs were

tabled to amend and replace the relevant parts of the previous documents;

- (c) while PlanD had not addressed the breach or subversion of the CPE policy, the Board should not facilitate the breach. The CPE policy was to better protect the enclaves but PlanD was planning to permit direct loss, damage, pollution, incompatible housing development, increasing development pressures and threats to Hong Kong's best countryside. The genuine needs for conservation, recreation, landscape protection and public enjoyment of the countryside, which should not be fragmented by development, were supported by the CPE policy;
- (d) the public interest and public expectation in protecting the CPEs against Small House developments had been upheld by the High Court in the recent Sai Wan Country Park case in that the Small Houses should be confined in certain ways and there was no general right for Small House as claimed in respect of the enclaves;
- (e) Hong Kong was a regional biodiversity hot spot and the enclaves were a key part of such conservation value. It had regional and national responsibilities to protect the rare and significant species and their sensitive habitats in the enclaves from development threats and a duty to implement the Convention on Biological Diversity. However, the OZPs did not follow the internationally agreed Aichi Biodiversity Targets. The Board would be held accountable in future if it made a wrong decision now and facilitated the fault;
- (f) the issue of cumulative impacts had not been addressed and the ecosystem approach or holistic approach were not followed in the OZPs. It was totally contrary to sensible planning or precautionary approach which should plan ahead and anticipate and prevent the problems beforehand. It appeared that the Government has just waited to see what the pollution would cause until at the very late stage that no meaningful action could be taken on the cumulative environmental impacts;

- (g) as regards the question raised by the Chairman on whether Hoi Ha should be evacuated since the existing village houses in Hoi Ha were causing pollution, it was absolutely right that the Small Houses were causing pollution and evacuation might be the logical solution. The Chairman's question suggested that the OZPs could lead to this situation if they permitted all 40 Small Houses in Hoi Ha or 134 Small Houses in So Lo Pun in one go. Indeed, the pollutions could be eliminated at source by not zoning the enclaves for Small House developments;

- (h) the genuine need for the excessive "V" zones in the three OZPs had not been proven. PlanD had not provided any justifications for the large "V" zones based on needs but just the unverified demand for the "V" zones which was never a justification in planning law. So Lo Pun had been uninhabited for decades and it did not have a genuine need for Small House. The zoning of the existing built areas and building lots as "V" was already a reasonable baseline of the existing need. In the Tai Long Wan precedent, only the existing built-up areas were zoned as "V". Such a pragmatic, principled and evidence-based decision making should be followed. Bargaining with vested interests over the "V" zones, in the absence of genuine need and justification, was not planning according to law and evidence. The CPE policy was to protect the enclaves from incompatible developments but not to cave in to vested interest pressure. This caused loss of credibility to PlanD, the Board and the planning process;

- (i) the excessive "V" zones facilitated fraud and were against public interest. Land in the "V" zones planned for Small Houses were not owned by the villages but outsider development companies. While PlanD facilitated fraud and abuse of the Small House policy, the Board had a duty not to create a zone which would facilitate fraud;

- (j) the Tai Long Wan precedent by limiting the size of the "V" zone to only those existing houses was a solution for the excessive "V" zones with vested interest demands in the three OZPs, although PlanD tried to argue in

the hearing session on 8.5.2014 that the Tai Long Wan case was different because of its heritage value which was wrong. The Tai Long Wan case was similar to the three current CPEs which even had more valuable biodiversity. There was no valid reason for not following the Tai Long Wan precedent which actually worked;

- (k) the pollution which would be caused by the “V” zones and Small Houses was not addressed. There was no attempt in PlanD’s papers to address the detailed representations proving that the geology of alluvium would lead to septic tank pollution and that the flooding of the flood plain would spread the pollution and pathogens causing health risks as the amount sewage effluents increased with the number of houses. The impacts on the Marine Park and beaches were not addressed. From his experience in sitting on various environmental protection and conservation bodies, the existing enforcement mechanism could hardly work in “V” zones. It was irresponsible for PlanD and the Board to plan the “V” zones which could create problems and say that other departments could fix the problems brought about by the “V” zones;
- (l) it was the job of PlanD to prevent pollution but their bad planning would knowingly facilitate the start of pollution in the enclaves. The Board had a statutory duty under section 3 of the Town Planning Ordinance to deliver planning for the health and safety of the public. It would be in breach of its duty if it allowed zonings which would contribute to endangering the health and safety of the public. While STS systems in “V” zones were causing pollution and health risks, the villagers would argue that it were PlanD, EPD and the ProPECC PNs that allowed them to use the STS systems;
- (m) PlanD and EPD did not address the failure to meet the Technical Memorandum under the Water Pollution Control Ordinance which required that new effluent or STS system should be at a minimum of 100m from the Hoi Ha Site of Special Scientific Interest. It was because EPD had policy

of not applying the Water Pollution Control Ordinance but not a question of legal interpretation. Its professed reliance on the ProPECC PNs and the inadequate usual mechanisms or administrative measures was a failure to apply the specific law. The Board had a duty not to facilitate the breach of the law by EPD and others in relation to Hoi Ha;

- (n) according to the Town Planning Ordinance, planning should be for the benefit of the community. In the context of the three OZPs and the prevailing CPE policy, the OZPs should be for the benefit of the public interest in conservation, recreation, landscape and public enjoyment of the countryside. The bias towards the Small House policy by designating the excessive “V” zones should not be the planning objective;
- (o) the main reason why PlanD would propose such irrational and unreasonable OZPs with excessive “V” zones where the land had been sold to developers and why they were unable and unwilling to address the representations was that they wished to appease the vested interest demands by providing the excessive “V” zone far in excess of proved genuine need, as well as other zonings such as the degraded “GB” which offered speculative hope for future development. The Board should not allow such irrelevant consideration to overwhelm the objections to such planning. The rational and proportionate zoning to meet demands for genuine need of future residences for male indigenous villagers and legal obligations of the land leases would be to follow the precedent of Tai Long Wan which was pragmatic, in accordance with planning principles and good in law;
- (p) the proposed amendments to the OZPs tabled generally followed the Tai Long Wan precedent in wording and intention and they should be adopted by the Board. By putting uses under Column 2 of the Notes of the OZPs the Board retained control over the uses, which was of paramount importance for protecting the sensitive habitats in the CPEs. The existing built-up areas of the “V” zones reflecting the past genuine needs were the appropriate area to be zoned as “V”. If a genuine need was justified in

future, the protected land could be considered for other uses on a case by case basis. However, if extensive areas were zoned as “V” in advance of any determination of genuine needs under the OZPs, the sudden increase in size of the “V” zones and number of houses would facilitate the sale of houses to outsiders which was an abuse of the Small House policy;

- (q) zoning excessive land in the CPEs for “V” meant that LandsD would permit Small House developments without public involvement in the process. Evidence showed that LandsD had limited control or enforcement over “V” zones which contributed to the notorious pollution, sewerage, access, safety and health problems in the “V” zones, which were contrary to the planning objectives under the Town Planning Ordinance;
- (r) the Board should make decisions in the public interest. In balancing the unverified demands from vested interests against the policy, evidence, law and genuine needs for conservation, the Board had a duty to protect the public interest and the legitimate expectation in conservation of the CPEs. A solution to achieve this had been proposed to the Board;
- (s) the only effective means to protect the areas of significant ecological value in the CPEs was to zone them as “CA” but not “GB”. While there was a presumption against development within “GB” zones, PlanD would regard “GB” as land bank for future village development. “GB” zoning just facilitated more Small House developments but not to protect the areas. The zonings in the Tai Long Wan OZP were simple and logical and they should be followed for the three OZPs; and
- (t) the preparation of OZPs for the three enclaves was only an interim measure to protect the areas from development and the enclaves should be designated as country parks ultimately. This approach was adopted when the Government designated the Tai Long Sai Wan enclave as country park. Only the designation as country parks could provide adequate protection, proper management and proactive conservation for these enclaves as the

planning system was not adequate to protect them. The duty of the Board was to protect the enclaves as best as it could under the Town Planning Ordinance until one day when the areas would be under the control of the Country and Marine Parks Ordinance.

[Actual speaking time of C2864: 36 minutes]

40. The Chairman said that Mr Ruy Barretto S.C. (C2864) might have misinterpreted his question raised in the Question and Answer session for the representations as he had never made any suggestion to relocate the village in Hoi Ha. He only asked a question on whether the existing village settlement in Hoi Ha should be relocated because some representers suggested that any level of pollution going into the Marine Park would be unacceptable but the fact was that there was already an existing settlement in Hoi Ha which was generating pollution. The Chairman said that his question was neither an intervention nor a suggestion to relocate the village. In response, Mr Ruy Barretto S.C. (C2864) said that no one was suggesting the relocation of the existing village but if there was a situation of pollution, the least drastic solution was not to introduce 40 more houses to Hoi Ha by the OZP.

41. The Chairman then invited Mr David Newbery (C3645) to give his oral submission. He reminded that this session was for the commenters and their representatives to elaborate on the commenters' submissions and they should be commenting on the other representations that had been made, but not to supplement what had been said to the Board in their capacities as representers.

C3645 – Mr David Newbery

42. With the aid of a Powerpoint presentation, Mr David Newbery made the following main points:

- (a) he was representing the Friends of Hoi Ha;
- (b) the “V” zone designated on the original draft Hoi Ha OZP No. S/NE-HH/1 was flawed. The revised “V” zone as shown on PlanD’s proposed

amendments to the Hoi Ha OZP was better but there were still major problems in the mapping of the coastline and hydrology, the lack of control for agricultural use, whether the proposed “GB(1)” zoning was for development or conservation, the creation of sewage impact, the newly proposed “GB” area and the way housing need was defined, despite that these problems could be resolved;

- (c) the coastline mapping by PlanD in the Paper for Hoi Ha was incorrect. While an area within the “Coastal Protection Area” (“CPA”) zone between the Marine Park boundary and the “V” zone boundary was marked as ‘fields’ on a plan, that area was actually not ‘fields’ but should be a beach with associated mangroves as revealed from site photos. PlanD’s plan gave the impression that there was at least a distance of 40m between House 21A and the sea, but in reality the distance was less than 20m during mid-tide;

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

- (d) the Marine Park boundary shown by PlanD as out to sea was arbitrary. It was neither the high tide mark nor the beach line. It was true that before coastal erosion which happened in the 1970s, Hoi Ha Village was about 40m to 50m from the sea. However, the beach at about the mid-tide mark now came as close as about 10m from the old (ruined) village walls;
- (e) PlanD had recognised the need for the “CPA” zone to be at least 25m wide. While PlanD’s plan showed the “CPA” zone as being 30m wide in front of the old village, the “CPA” was effectively 10m wide in reality because coastal erosion had changed the boundary between sea and land. As such, the “CPA” zone needed to encroach upon the existing village footprint because the coastal boundaries had changed. A 10m wide “CPA” zone was insufficient to prevent the building works causing pollution and continued erosion. The old village should be included within the “CPA” zone not only to stop all building activities in the area but to ensure that any

building works would not cause pollution to HHW or resumption of coastal erosion;

- (f) a mapping of the hydrology including the existing streams and marshes of Hoi Ha indicated that the western part of the originally proposed “V” zone (part of which was proposed to be rezoned to “GB(1)” by PlanD) was within an area of very high water table that was not suitable for building of houses;
- (g) agricultural use was allowed on privately-owned land in areas zoned “CPA”, “CA” and “GB”. Indeed, 95% of land in the “GB(1)” zone was owned by developers. It was doubtful if people would farm in these areas or they would just use farming as a pretext for trashing an area prior to applications for development. Fake farming, as revealed in Pak Sha O, could involve destruction of woodland and draining of woodland and marshland. The present hydrological system of the woodland and marshland in the proposed “GB(1)” zone effectively filtered runoff and produced clean water running into HHW, which was vital for its survival. If uncontrolled farming was allowed, trees would be cut down to leave exposed soil, the soil would be washed down into HHW, silt would cover the corals and other marine life and the marine life would be killed. Farming activities also involve the use of fertilisers and pesticides. These pollutants would be washed into HHW causing algal blooms, de-oxygenation of water and poisoning of marine life;
- (h) ‘Agricultural Use’ was suggested to be transferred from Column 1 to Column 2 under the Notes for “CA”, “CPA”, “GB” and “GB(1)” zones in the Hoi Ha OZP. This was not to prevent small-scale, sustainable, organic and environmentally-friendly farming activities but to avoid the areas being trashed by bogus farming activities. A genuine farmer could apply to the Board for permission to carry out farming activities which would not harm the environment and, in particular, would not cause pollution to HHW;

- (i) the intention of the proposed “GB(1)” zoning was unclear. PlanD had recognised that AFCD’s ecological assessments were flawed and inadequate and that the data from the non-governmental organisations had merits, i.e. they were correct. PlanD said that they were zoning the “GB(1)” area for conservation but “GB” was seen by the public as a reserve of future building land in the recent government policy. If the “GB(1)” area was seen as available for future development, the landowners, i.e. developers, would trash the area to destroy the ecological value. If PlanD did have the intention to conserve the area, it should be zoned “CA”;

- (j) Hoi Ha had no proper sewerage system. All houses in Hoi Ha were served by STS systems which were designed to produce effluent which flew through the soil and was purified by soil bacteria. The greater the distance between a STS system and the receiving water, the greater the purification. Measurable levels of *E. coli* and endocrine disrupting compounds were found close to the beaches at Hoi Ha. These pollutants could only come from STS systems at Hoi Ha, which had been licensed in accordance with EPD’s policy;

- (k) EPD’s Technical Memorandum on Effluent Standards stated that bathing beaches and SSSIs within the coastal waters were special areas that needed specific restrictions, and no new effluent would be allowed within 100m of the boundaries of a gazetted beach, and within 200m of the seaward boundaries and 100m of the landward boundaries of a SSSI. However, EPD’s policy did not take account of such legislative requirement. It allowed the siting of STS systems within 30 m of a SSSI rather than the statutory 100m, which could not prevent pollution from Hoi Ha’s existing STS systems from entering into HHW. The OZP would further lead to an increase in the number of STS systems in Hoi Ha for more than double. This would result in public health hazard, destruction of marine life and breach of the environmental law;

- (l) parts of the proposed “V” zone were waterlogged with a high water table

and numerous streams, rendering the areas unsuitable for septic tanks. The step-back distances should be increased to provide the same level of purification as in ideal conditions. While the existing STS systems were causing pollution in HHW, the OZP allowed 40 more new houses, the majority of which would be within 100m of HHW. If the incorrect maps were used for planning, septic tanks might be sited on the site of the old village at 10m or less from the beach. Much of the “V” had soil hydrology which precluded effective treatment of sewage effluent. A proper planning process should assess the cumulative impact of adding more sewage effluent to the hydrological system. The possible consequences would be the increase in the levels of *E. coli* which might render the beaches unsafe for public health, increase in nutrients in HHW causing a decrease in oxygen levels and damaging the marine life, and increase in the levels of detergents and non-biodegradable detergents, which were toxic to marine life, especially corals. It would be an environmental catastrophe to destruct HHW which was a place for conservation and recreation;

- (m) EPD had three pollution monitoring stations at HHW with the nearest one at more than 1km from the beaches and in an area regularly flushed by Tolo Channel. Although EPD claimed that there was no pollution of HHW at present, the inner reaches of HHW had slow flushing rates, especially in dry season such that the pollutants would not be removed quickly. A lagoon was recently formed at the stream estuary which would trap and concentrate pollutants;
- (n) upon full development, Hoi Ha would no longer be a small village. The individual STS systems would not provide long-term protection to HHW. To resolve the water pollution problem, no more house development should be permitted until a long-term solution for the disposal of sewage was available, for instance a piped sewage mains system or a local, environmentally-friendly sewage plant, which also served the existing houses;

- (o) he wondered why an area to the east of the “V” zone would be rezoned from “CA” to “GB” by PlanD as a proposed amendment to the Hoi Ha OZP. The proposed “GB” area was not flat as claimed by AFCD. It was strewn with large boulders and was difficult to access. It was a totally natural old woodland which had never been farmed, and it was a mature, distinct and un-surveyed ecosystem. The designation of the area as “GB” was just seen as providing a reserve of future building land for development. However, AFCD had not presented any scientific data on the ecology of the area. In fact, there was a significant stream flowing through the area into HHW and part of the area had been designated as fung shui woodland by AFCD. The designation of “GB” should be for defining the limits of urban and sub-urban development areas by natural features and containing urban sprawl but not for creating an island in the middle of a “CA” zone;

- (p) the “V” zone in Hoi Ha was drawn up by PlanD based on the figure of 84 Small House demands given by the village representative plus 10 outstanding applications for Small House grants being processed. Whether such a demand figure of 84 was based on the total number of potentially entitled indigenous villagers worldwide or the number of houses that could be built within the private land owned by the villagers was unknown as it had not been subject to any kind of audit, verification or scrutiny. The village representative of Tung A had admitted to the newspaper that the figure he provided to the Government was just a rough estimate and he had asked for more than the actual need. There was no reason why the arbitrary figures provided by the village representatives should be used as the basis for the “V” zones in the OZP;

- (q) in the last 18 years, 7 new houses were built in Hoi Ha. However, none of the new houses was occupied by indigenous villagers. Therefore, the need for housing in Hoi Ha under the Small House policy in the last 18 years was zero. It was unlikely that 94 male villagers would return to live and work in Hoi Ha in the next 10 years. The planned Small Houses would not help solve Hong Kong’s housing shortage and they would not provide houses for

the indigenous villagers. They would only benefit the developers, property speculators and those absentee indigenous villagers;

- (r) only the indigenous villagers were consulted by the Government but most of them did not live in the village and they were only interested in the money made from the Small House policy. The resident villagers of Hoi Ha had not been consulted on the OZP. In fact, more than three-quarters of the resident villagers had written to the Rural Committee saying that the views expressed by the Rural Committee to the Board did not represent the views of the villagers who resided at Hoi Ha. The Rural Committee replied to the resident villagers that their primary function was to protect the rights of the indigenous population, particularly to safeguard their rights on village houses. The Small House policy provided the indigenous male villagers with the right to apply for building a Small House in Hoi Ha and where they lived was irrelevant;
- (s) if the Board accepted the Rural Committee's view that an indigenous villager's eligibility to build a Small House had nothing to do with his intention to occupy the house, and also the Village Representative's claimed demand for housing, it would set a bad precedent for other CPEs and open up the floodgates for infinite number of applications from the indigenous villagers who had no intention of living in their New Territories villages;
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(t) a long-term plan for Hoi Ha should be formulated with inputs from key stakeholders, including the resident villagers, the indigenous villagers with a genuine need for housing in the village, village businesses, tourist industry, education providers, environmental groups and visitors who enjoyed Hoi Ha and HHW; and
- (u) the OZP also needed to be amended by properly mapping the coastline and the hydrology and extending the "CPA" to ensure that it provided at least a 25m barrier between the beach and the "V" zone; putting 'Agricultural Use'

under Column 2 of the “CA”, “CPA” and “GB” zones to require planning permission from the Board for agricultural activities; not allowing septic tanks within 100m of the beaches or 30m of a stream; deleting the proposed new “GB” zone to the east of the “V” zone and reverting it to “CA”; rezoning the proposed “GB(1)” zone to “CA”; designating the area to the west of the proposed “V” zone and east of the proposed “CA” zone as “GB(1)” to serve as a buffer area; planning the “V” zone based on a realistic estimate of the housing need under the Small House policy but not the village representative’s desire; and clarifying and enforcing the intent of the Small House policy to require that the Small House being applied for should be a genuine residence for the indigenous villager.

[Actual speaking time of C3645: 33 minutes]

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

[Messrs H.W. Cheung, Patrick H.T. Lau and K.K. Ling left the meeting temporarily at this point.]

C3657 – Hong Kong Countryside Foundation

43. Mr Edward Michael made the following main points:

- (a) the Board should base its decisions on good evidence. If the evidence was not good enough to justify a particular course of action, the existing policies and practices should be followed. The Board also had a duty to make decisions in the public interests, which were generally defined by the enclave policy, the planning policy, the Hong Kong Planning Standards and Guidelines, the decision of the Legislative Council with reference to the Tai Long Sai Wan case, the court and the Town Planning Ordinance;

[Mr Patrick H.T. Lau returned to join the meeting at this point.]

- (b) contrary to public interests were private interests. Private interests included development needs or development expectations disguised as property rights. However, property rights only conferred a right on a person to submit the necessary application to the Government. The application was still subject to the Laws of Hong Kong and might or might not be approved. As for Small House development, the villagers were often not the beneficiaries of the Small House policy. Rather, it was the private developers who profited the most from the Small House policy once they had bought up the land owned by the villagers. There was a need for the Board to distinguish public interests from private interests. We should not sacrifice public interests for the sake of the profits of a few corporations;

- (c) in making its decisions, the Board should conduct an accurate assessment of the land uses of the concerned areas. So Lo Pun was an area with the highest conservation value, as shown by studies conducted by Kadoorie Farm and Botanic Garden Corporation and other green groups. The area had not been inhabited for about 30 years. Very strong justifications and evidence had to be provided for the Board to change the existing land uses of the area;

[Mr K.K. Ling returned to join the meeting at this point.]

- (d) as shown by the efforts to discourage “destroy first, build later” activities, the Board took the existing land uses of the rural areas very seriously. So Lo Pun, Hoi Ha and Pak Lap were all of high conservation, ecological and landscape value. Very strong justifications and evidence had to be provided for the Board to allow a deviation from the existing land uses. From this perspective, these areas should not be zoned for anything other than “CA”;

- (e) the Government often used the argument that the imposition of approval conditions was effective in mitigating the adverse impacts of developments

as a justification for permitting these developments. However, this reasoning was in direct contradiction with the precautionary principle, which stated that no harm should be inflicted at all if the extent and degree of the harm was unknown;

- (f) according to a table from “Hong Kong Headline Indicators for Biodiversity and Conservation Report”, the total area of planning application sites falling within the “GB” zone jumped significantly from 36 hectares in 2012 to 131 hectares in 2013. Of these 131 hectares of planning application sites, about 108 hectares were subsequently approved by the Board. This indicated that the “GB” zone was effectively turned into a development zone. It would be misleading to continue to call this zone a “GB” zone;

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

- (g) there was no evidence to show that the “GB” zone would be protected against development. There was also no evidence to show that all sewerage facilities would prevent unwanted sewage from flowing into the sea. On the contrary, there was a long body of evidence to show that ‘agricultural use’ comprised activities that diminished the ecological value of a piece of land;
- (h) once the ecological value of the land was diminished, the likelihood of restoration would be extremely low. Enforcement actions and prosecution were not effective mechanisms to protect the ecological value of the CPEs;
- (i) ‘agricultural use’ and developments generating sewage flows should not be permitted as of right within the “GB” zone. It was the duty of the Board to consider these developments under the planning application process; and
- (j) there was no need to “strike a balance” in an area intended for nature conservation. Any balance had to be geared towards the public interests of conservation rather than the private interests of profits. The planning of

the enclaves was not a battle between environmentalists and villagers. The interests of the villagers were already protected as they were allowed to build on the existing building lots. However, the additional property rights that some villagers demanded should not be protected under the enclave policy.

[Actual speaking time of C3657: 10 minutes]

SLP-C3669 – Wong Hing Cheung

SLP-C3673 – Wong Shui Keung

SLP-C3675 – Margaret Wong

SLP-C3676 – Wayne C Wong

SLP-C3677 – Wong So Chun

44. Mr Wong Hing Cheung made the following main points:

- (a) he represented the village committee of So Lo Pun and he had been authorised by four other villagers to speak on their behalf;
- (b) Mr Wong Shui Keung's (SLP-C3673) views were summarised as follows:
 - (i) many Hong Kong people had been misled by the media into believing that village type development would have adverse impacts on the ecology and the rural environment. Some Legislative Council or District Council members, Government departments, environmentalists and green groups had voiced their objection against village type development in So Lo Pun. It was unfair to the villagers as they were only a minority group;
 - (ii) the Country and Marine Parks Authority had only included government land into the country parks. Furthermore, the 300 feet of land surrounding a village was normally excluded from the country parks. These indicated that the original intention of the country park

policy was to allow the villages to grow. In contrast, the OZP was a statutory tool intended to wipe out So Lo Pun;

- (iii) the restoration of So Lo Pun and the development of a village office or tourist centre in the village would not affect the ecological and landscape value of the So Lo Pun area. In contrast, the hikers and campers who urinated and left excrement in the rural environment had led to pollution in the So Lo Pun area;
 - (iv) So Lo Pun Village had been in existence for a few hundred years. It was the only recognised village in the northern part of the New Territories. The village was of Hakka heritage and its layout was in a harmonious relationship with the surrounding rural areas. Without the rights to use the land, the villagers would be left with nothing. Once destroyed, the village and its heritage would be gone forever; and
 - (v) the Government should strike a balance between conserving the environment and protecting the rights of the indigenous villagers. This would make society more harmonious and stable. The Government should support the restoration of the village and explore the tourism potential of the area;
- (c) some Legislative Council members, such as Hon. Kenneth Ka Lok Chan, and some green groups had queried why So Lo Pun, which had no existing resident, would have a planned population of 1,000. It should be noted that the planned population figure was not reported by the Village Representative of So Lo Pun. It was only in response to the Government's request for information that he had reluctantly stated that 134 Small Houses would be required to meet the needs of the male indigenous villagers of the village;
- (d) no one would easily give up the inheritance left behind by their ancestors.

According to Article 40 of the Basic Law, the lawful traditional rights and interests of the indigenous inhabitants of the New Territories should be protected by the Government;

- (e) the village had a history of over 300 years, but the country park system had been in existence only since the 1970s. It was wrong to say that the village encroached onto the country park areas. It was the rights of the villagers to apply for Small House development, and it was the duty of the villagers to protect their village;
- (f) as the village was surrounded by the country park and there was no road connecting the village to the urban areas, they had no choice but to temporarily leave the village. Since 2007, they had tried to restore the village to its previous conditions. Their mission to restore the village was encapsulated in a poem (認祖詩) written by their ancestor which taught them that they should honour their ancestors. For this reason, even though 95% of the land of the village was private land, the villagers had not sold any of it for profit. It was not fair to the villagers if the green groups sought to confiscate their land so that members of the green groups could enjoy the natural environment;
- (g) the villagers were not against nature conservation. It might even be worthwhile to sacrifice their land for nature conservation. However, the truth was that a majority of the representers and commenters lived in the urban areas to take full advantage of the benefits of modern urban living and only visited the rural areas during their spare time. This kind of selfish behaviour was not worthy of the villagers' sacrifice;
- (h) the natural environment would not be protected by the gazettal of an OZP. The only effective way to conserve the environment was to actually do something to improve the environment. For example, as a result of the activities by some illegal loggers, there were frequent incidents of soil erosion in recent years, leading to the clogging of a reservoir which served

their village. In 2011, 2013 and 2014, the villagers desilted the reservoir so that water would flow to the village again. Those loggers also caused damage to the village houses. The only way that the villagers were able to protect their home was for them to reside in the village. There was also frequent flooding in recent years as no one was there to dredge up the sediments in the river. The Government should be responsible for managing the river;

- (i) there was previously a stream in So Lo Pun. However, after a villager built a pond near the upstream portion of the stream in the 1970s, the stream had disappeared. Therefore, there was no ecologically important stream in So Lo Pun;

[Professor K.C. Chau returned to join the meeting at this point.]

- (j) a lot of private land, some of them were terraced fields, had been zoned as “GB”. The villagers had been clearing the vegetations there so as to restore the terraced fields. It was not sure if they were still able to do so after the terraced fields were zoned as “GB”;
- (k) the restoration of the village should not be considered as “destroy first, build later” activities as the villagers had no intention to build new developments in the village; and
- (l) if So Lo Pun was incorporated into the country park as Legislative Council member Hon. Wu Chi Wai had suggested, then it would be a case of confiscating private properties for public purposes.

[Actual speaking time of SLP-C3669, SLP-C3673, SLP-C3675, SLP-C3676 and SLP-C3677: 30 minutes]

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

SLP-C3670 – Wong Yau Man

45. Mr Wong Yau Man made the following main points:

- (a) he was born in So Lo Pun and was a true indigenous villager;
- (b) the plan for So Lo Pun was prepared without good evidence. The genealogy book of the village indicated that there were 14 generations since the establishment of the village and there were over 100 families living in the village in its heyday. A school was built in the 1950s with several dozens of students and the Government supported the expansion of the village. Although there were a lot of residents in the village at that time, they were able to co-exist with nature in a harmonious manner. It was only when no one was there to manage the river and the fields that the rare animal and fish species began to disappear;
- (c) although the rights of the villagers were protected under the Basic Law, the Government now decided to cover the village with a statutory plan which restricted the growth of the village. The Government should have encouraged the development of the village and the rehabilitation of agricultural activities;
- (d) the rubbish that was found in and around the village were brought by hikers and visitors from the urban areas. The green groups had not done anything to stop these hikers and visitors from polluting the areas;
- (e) the villagers would not give up and would return to reside in the village one day when roads and other communications infrastructure were built; and
- (f) it was proposed that the private land should be zoned as “Agriculture” so as to conserve the natural environment. It was hoped that the Government would protect the Hakka history and culture so that the villagers could contribute to society in the future.

[Actual speaking time of SLP-C3670: 10 minutes]

SLP-C3672 – Jane Wong

46. Ms Jane Wong made the following main points:

- (a) she was a member of the 11th generation of indigenous villagers from So Lo Pun. She was also a member of the 167th generation of her clan;
- (b) So Lo Pun was a recognised village which was in existence even before the British took over the New Territories. The British Colonial Government recognised the village and built tracks, playgrounds, a pier and a reservoir for the benefit of the village. The Police also maintained a good relationship with the villagers at that time. In the 1970s, when the Government developed the country park system, the private land in the village was preserved in a CPE;

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

- (c) unfortunately, the Government did not build a road or provide electricity to the village. To make a living, many villagers had no choice but to leave the village for the urban areas. According to the 2011 Census, there was no person living in the village, and there were at this moment no outstanding Small House applications. However, the clan had continued to expand and members of the clan could now be found all over the world. Many of them insisted on returning to the village every year to pay respect to the ancestors and to participate in festivals. In 2008, weeds within the village were cleared by the villagers on their own initiative. Recently, some of the older graves were renovated. It was hoped that the village could be restored one day;
- (d) it was not the villagers of So Lo Pun who intended to invade the country parks. Rather, it was the country park which was about to swallow the

village. The green groups were even more terrifying than the British colonial Government and the Japanese invaders in their efforts to wipe out the village. The villagers had been consistent in conserving the village and no private land had ever been sold to private developers for profit. The green groups were not acting in a civilised manner when they accused the villagers of being the enemy of nature conservation;

- (e) Hong Kong was a society with rule of law, but due to pressure from the public, the Board did not follow the relevant laws. According to Article 6 of the Basic Law, the HKSAR should protect the right of private ownership of property, and according to Article 105 of the Basic Law, the HKSAR should protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property. However, the OZP was in contravention of these laws as it deprived the villagers of their property rights by zoning the private land as “CA” and “GB”;

- (f) ‘Agricultural Use’ and ‘On-farm Domestic Structure’ were uses that were always permitted within the “CA” and “GB” zones. However, AFCD advised in paragraph 5.12(k)(i) of the TPB Paper No. 9645 that planning permission from the Board was required for any works relating to diversion of streams, filling of land/pond or excavation of land within these zones which might cause adverse impacts on the natural environment. It should be noted that to restore the fields and fish ponds, works such as diversion of streams, filling of land/pond and excavation of land were necessary. It was meaningless to say that ‘Agricultural Use’ was always permitted within these zones;

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

- (g) town planning should be oriented towards people rather than animals and plants. As the villagers intended to restore the village, the Government should render its support and assistance to them. The “V” zone should not

only include Small Houses and sewage treatment facilities, but should also be provided with basic infrastructure and services such as roads, potable water and electricity supplies, public security and telecommunications services;

- (h) historically, the development of many villages in the New Territories and in the urban areas was not satisfactory as they had led to environmental degradation. This was mainly due to the fact that there was a lack of guidance and monitoring from the Government and the environmental awareness of many villagers and developers was poor. For So Lo Pun, a new approach aimed at the development of an eco-village should be adopted. This new approach would be in line with the Government's plan for the Sha Tau Kok area which was to develop the area as a destination of eco-tourism and cultural tourism. With this new approach, the co-existence of the people and the natural environment would be encouraged and the private property rights of the villagers would be respected. It would revitalise the village while at the same time conserve the natural environment; and
- (i) the role of the Town Planning Board in this new approach was not simply to plan and control. Rather, it would guide and facilitate the restoration of the village and the development of a tourist destination.

[Actual speaking time of SLP-C3672: 12 minutes]

47. As the presentations had been completed, the Chairman invited questions from Members.

So Lo Pun

48. The Vice-Chairman asked Mr Wong Hing Cheung (SLP-C3669) to provide more information to support the 10-year Small House forecast of 270 for So Lo Pun. Mr Wong Hing Cheung said that the Villager Representative provided the 10-year Small House forecast at

the request of LandsD. As at 2013, the number of male indigenous villagers of So Lo Pun was 270, with 69 living in Hong Kong and 201 living abroad. The 10-year Small House forecast of 270 was the sum of the number of male indigenous villagers over the age of 18 who had not submitted an application for Small House development (233) and the number of male indigenous villagers who would reach the age of 18 in the next ten years (37). According to his knowledge, no villager from So Lo Pun had ever submitted an application for Small House development to LandsD. Therefore, the number of male indigenous villagers was the same as the figure of the 10-year Small House forecast.

49. The Chairman asked whether it was true that all the male indigenous villagers currently living outside of So Lo Pun intended to apply for a Small House grant. In response, Mr Wong Hing Cheung said that it was their right to apply for a Small House grant and they did not assume that the villagers would forfeit their right when they estimated the 10-year Small House forecast.

50. The Vice-Chairman asked whether Mr Wong Hing Cheung had the names of all the male indigenous villagers who were included in the 10-year forecast. Through the visualiser, Mr Wong Hing Cheung presented a table showing the number of indigenous villagers from different branches of the clan. He said that he was able to collect the relevant data from most of the villagers. However, as some villagers had already lost contact with the village committee, he had added 15 to 20% to the number of known male indigenous villagers so that those villagers who had lost contact could still retain their right to apply for a Small House development. The 10-year forecast of 270 already included the extra 15 to 20%.

51. The Vice-Chairman then asked why the number of male indigenous villagers over the age of 18 as shown in the table was 228 while the corresponding number provided to LandsD was 233. In response, Mr Wong Hing Cheung said that the numbers shown in the table were collected in 2012 while the numbers presented to LandsD were put together in 2013.

52. The Vice-Chairman asked whether the genealogy book mentioned by Mr Wong Yau Man (SLP-C3670) had included the names of all the male indigenous villagers. Mr Wong Yau Man said that the genealogy book was updated two years ago and therefore the information in the genealogy book should correspond well with the table shown by Mr Wong Hing Cheung.

53. The Vice-Chairman asked whether a copy of the genealogy book could be made available for the reference of the Board. Mr Wong Hing Cheung declined and said that he would only do so if the Board could guarantee that the information contained in the genealogy book would not be disclosed to the public. This was to prevent people from making use of the information in the genealogy book and pretending to be an indigenous villager to apply for Small Houses. The Chairman suggested that the Secretariat could have a look at the genealogy book after the meeting. Mr Wong Hing Cheung agreed to the suggestion.

54. A Member asked what the difficulties were in restoring So Lo Pun. In response, Mr Wong Yau Man said that the main difficulty was that there were no road and supporting services in So Lo Pun to jump start the restoration process. Mr Wong Hing Cheung added that the objective of the restoration of the village was not to attract a large number of villagers to come back to reside in the village. Rather, it was hoped that the previous appearance of the village could be restored. Since the village committee was formed in 2007, a donation over \$800,000 was collected. The money was used for clearing the unwanted vegetation and other related works so that the village could be refurbished to its previous beauty.

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

55. A Member asked whether any survey had been conducted to collect the opinions of the villagers on their willingness to return and reside in the village. In response, Mr Wong Hing Cheung said many villagers would be willing to do so if there were roads and supporting services in So Lo Pun. He got that impression from numerous informal conversations with the villagers.

56. A Member asked how the restoration of the village was possible if the villagers had to go back to the urban areas to make a living. Mr Wong Hing Cheung said that many villagers were willing to reside in the village where they could recollect many beautiful childhood memories. Ms Jane Wong said that even if the village was restored, many villagers would not take the village as their regular abode. Rather, they would likely spend their weekends, holidays or festivals in the village and engage in planting, livestock-rearing and agricultural activities. There were also plans for organic farming and restoration of the fish ponds. It could be said that the villagers would like to revive the village lifestyle in a modern

manner. However, they had no intention to build a restaurant or shopping centre in the village.

57. A Member asked whether it was possible to conserve the village if there was no one living there. Mr Tony Nip (C1638) said that having ownership of the private land did not imply that there was a corresponding right to develop the land. It was not the original intention of the Government to allow the villages in the CPEs to continue to grow, otherwise the Government would have enlarged the enclave and built roads to the villages. With the demarcation of building lots and agricultural lots, there was a clear mechanism in determining the land uses within the village. The green groups had not argued for the eradication of the village as some representers had claimed. They only considered that the size of the “V” zone was too big. There was enough room for the villagers to develop an eco-village using the existing built-up area. There was no strong reason to allow an additional 134 Small Houses when the existing village settlement was not fully in use. They were of the view that the precedent of the Tai Long Wan OZP should be followed as it allowed the village to continue to thrive while the natural environment was conserved. It represented a “win-win-win” situation for the villagers, the public and the environment. During the preparation of the Tai Long Wan OZP, the villagers also requested for a larger “V” zone. However, after the OZP was published, no applications for Small House development had ever been received by the Board, indicating that the demand for a larger “V” zone had been exaggerated. It should also be noted that the green groups had no objection to the restoration of farming in the village and the use of water from the nearby river for irrigation. If needed, the villagers should seek help from AFCD on the laying of a water pipe for irrigation purposes. Some representers had mentioned the adverse impacts brought about by the hikers and campers, but the fact was that very few of them regularly visited the remote enclaves such as So Lo Pun and Hoi Ha. The adverse impacts brought about by hikers were far less in comparison with those brought about by the addition of 134 new Small Houses in So Lo Pun. It should also be noted that clearance of vegetation had taken place in So Lo Pun. In 2008, the Government had taken prosecution action against those people involved in illegal clearance of vegetation. In 2010, the mangroves on government land were disturbed. Government resources were involved in restoring the mangroves to its original state.

58. Mr Ruy Barretto, S.C. (C2864) said that the Tai Long Wan OZP was a good precedent as it allowed the village to continue to thrive due to the income from the tourism

industry. If the Tai Long Wan precedent was followed, the villagers at So Lo Pun should be able to manage the village and rebuild the village houses whenever they needed to. The “V” zone should only cover the existing built-up area. The areas surrounding the “V” zone should be zoned as “CA” because it could protect the natural areas providing a good surrounding environment for village. There was no reason not to follow the good precedent. As for clearance of vegetation in So Lo Pun, it should be noted that in 2008, 4,000 trees on government and private land had been cut.

59. Ms Debby Chan (C2506 and C2535) said that to conserve a village did not mean that everything in the village would have to remain unchanged. Rather, the objective of conservation was to maintain the ecological, landscape and recreational values of an area. The green groups had no objection to the inclusion of a “V” zone on the OZP for the restoration of the village, but there was no strong reason to have an extended “V” zone with 134 additional Small House developments while the existing village houses remained dilapidated. She had recently met a few young descendants of indigenous villagers from another village. They were born overseas and came to the Hong Kong for the first time. They heard the rumour that the Government was planning something for their village and they came back to see if there would be any economic opportunities for them. Obviously, these young descendants of indigenous villagers had no intention to reside in the village and revive the village lifestyle. An extended “V” zone would only bring a false hope to the villagers that the Government was going to develop the enclaves. As for the concern that illegal loggers had come in and damaged their properties, it was suggested that the area could be incorporated into the country park so that there would be regular patrol by the wardens of AFCD.

60. The Chairman asked why the villagers had requested for an extended “V” zone even though the existing village houses remained dilapidated. Ms Jane Wong said that when the villagers started to think about the restoration of the village in 2008, they did not have a long-term plan. They just wanted to build a few houses and hoped that this would generate enough momentum to attract more villagers to come back and reside in the village. It was only when LandsD asked them for a 10-year Small House forecast that they decided to undertake a survey. It should be noted that the young descendants of indigenous villagers mentioned by Ms Debby Chan did not represent the views of the villagers of So Lo Pun. Many deceased villagers were buried in the village, and this had stimulated a desire in the sons and daughters of

the deceased to return and reside in the village. The proposed development of 134 new Small Houses was a long-term objective that had no concrete implementation schedule, but she was optimistic that they were able to achieve this objective, as many villagers from different parts of the world had expressed a desire to return and reside in the village.

61. In response to a question from a Member, Mr Wong Hing Cheung said that flooding would not occur in the “V” zone as it was located on higher grounds.

62. In response to a question from the same Member, Mr C.K. Soh said that there was no need to obtain planning permission from the Board if a villager wished to rebuild a village house falling within the “V” zone. Mr Wong Hing Cheung said that LandsD had a set of stringent criteria and requirements when processing applications for the rebuilding of existing Small House development, and they had to give up such an application for the reason that they had failed to meet the criteria. The Chairman said that Mr Wong was referring to the land administration system which was different from the planning application system.

63. A Member asked whether the Board had ever approved any application for rezoning a site from “CA” to “V”. In response, the Secretary said that, according to her recollection, there was a section 12A application seeking to rezone a site from “CA” to “V”. The application was approved as the site involved a building lot and the site was located at the fringe of the “CA” zone.

64. Noting that the green groups wanted the enclave to be incorporated into the country park while the villagers wanted to restore the village, a Member asked whether there was a gulf of opinions between the two groups of representers that could not be bridged. Mr Tony Nip said that the large number of representations against the OZP were submitted by members of the public, and therefore it was not right to characterise the situation as a gulf of opinions between the green groups and the villagers. Furthermore, the green groups considered that the best solution under the town planning system was to follow the precedent of the Tai Long Wan OZP which would create a “win-win-win” situation for the villagers, the public and the environment, with the villagers being accorded the top priority. The green groups had never wished for the eradication of the village.

Hoi Ha

65. The Chairman asked whether the “V” zone in Hoi Ha was too close to the shorelines and whether the water table in the “V” zone in Hoi Ha was so high that septic tanks could not function properly. Referring to a few aerial photographs, Mr C.K. Soh, DPO/STN, said that the “V” zone was on higher grounds and was at some distance away from the shorelines. Areas close to the shorelines were on lower grounds and due to the alluvial deposits, septic tanks in those areas might not function properly. It should be noted that the High Water Mark was close to the outer boundary of the “Coastal Protection Area” (“CPA”) zone, but they were not in complete alignment. This was because the boundary of the “CPA” zone needed to be aligned with that of the HHW Marine Park so that there would be continuous statutory control from Hoi Ha to the HHW Marine Park. Unlike some representers had claimed, the “CPA” zone was not designed to control developments such as septic tanks. Rather, its planning intention was to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment. The regulation of the septic tanks fell within the purview of EPD.

66. In response to a further question from the Chairman, Mr C.K. Soh said that all existing Small Houses were within the boundary of the “V” zone in Hoi Ha.

67. In response to a question from the Chairman, Mr David Newbery said that the inner boundary of the marine park was meaningless as it was actually in the sea. Although the High Water Mark was reasonably accurate, about 50% of the time the water rose above the High Water Mark and washed away the soil. Therefore, the fields which fell within the “CPA” zone no longer existed and were now replaced by a beach with associate mangroves growing on it. As a result, the coastlines pointed out by Mr C.K. Soh were not the actual coastlines and the marine ecosystem was just about 10 metres away from the boundary of the “V” zone.

68. The Chairman asked why Mr David Newbery said previously that there would be Small House developments all over the “GB” zone, given that there was a presumption against development within the zone. In response, Mr Newbery said that he had no confidence in the Board to reject planning applications for Small House development within the “GB” zone. Referring to a table from “Hong Kong Headline Indicators for Biodiversity and Conservation

Report”, Mr Newbery said that out of 131 hectares of planning application sites involving the “GB” zone, 108 hectares of them had been approved by the Board, indicating that there was a high rate of approval for planning applications that involved the “GB” zone.

69. Referring to the table from “Hong Kong Headline Indicators for Biodiversity and Conservation Report”, the Chairman asked what percentage of the applications within the “GB” zone that were approved by the Board in 2013 were for Small House development. Mr David Newbery said that he would need to ask Dr. Roger Kendrick, who was a contributor to the report, for an answer. In any case, the “GB” zone had become a “reservoir of land” for Small House development, and the cumulative impacts of this “reservoir of land” being used up for development would be substantial. As for the concerned area in Hoi Ha, the “GB” zone was not an appropriate zoning as it appeared that the Board had no intention to limit the development of Small Houses within the zone. If the concerned area was intended for conservation, then it should be zoned as “CA” rather than “GB”. It was mentioned in paragraph 5.24 of the TPB Paper No. 9644 that “to cater for future demand for Small Houses, a review has been taken to identify possible locations that might have potential for Small House development”. It was clear that Small House developments would be permitted within the “GB” zone and it was his view that Small Houses would eventually be built all over the “GB” zone.

70. The Chairman said that, according to paragraph 5.24 of the TPB Paper No. 9644, applications for Small House development within the “GB” zone were not precluded and they could be considered by the Board based on their individual merits. He asked whether the term “reservoir of land” mentioned by Mr David Newbery had appeared in the paper. In response, Mr C.K. Soh said the term was not included in the paper.

71. The Secretary said that, according to her record, there were 55 planning applications for Small House development within the “GB” zone in 2013, involving a total area of 3.7 hectares. Among them, 17 applications, involving 1.51 hectares of land, were approved by the Board.

72. In response to a question from the Chairman, Mr Edward Michael (C3657) said that the information in the table from “Hong Kong Headline Indicators for Biodiversity and

Conservation Report” was compiled from the data collected from the Statutory Planning Portal and the minutes of the Board. The Chairman said that, in that case, the information was not the official figures provided by the Board, but only information that was compiled by a non-government organisation based on information it collected from various sources. Mr Edward Michael suggested that more detailed data could be provided to the Board to verify the information in the table. The Chairman said that as the Secretariat of the Board had a comprehensive record of the data, there was no need for Mr Michael to provide more supplementary data to the Board. Mr Michael suggested and the Chairman agreed that the Board could provide the relevant data to him for reference.

73. The Chairman asked whether EPD would be consulted on those Small House applications involving application sites which were not suitable for the proper functioning of septic tanks. In response, Mr C.W. Tse said that for Small House applications in the Hoi Ha area, the applicants would need to engage an Authorised Person to conduct a percolation test and submit the test results to LandsD to demonstrate that the concerned application sites were suitable for the installation of a septic tank. If the percolation test results were not acceptable, the application would likely be rejected by LandsD. LandsD might consult the EPD on whether the percolation test was conducted properly.

Pak Lap

74. A Member asked whether any private land in Pak Lap had been bought by private developers. Mr Ivan M.K. Chung, DPO/SKIs, said that about 44% of the village ‘environs’ was private land. According to his record, parts of the “V” zone had been bought by a private company.

75. As Members had no further question to raise, the Chairman thanked the government representatives and the commenters for attending the meeting. They left the meeting at this point.

76. The meeting was adjourned at 7:00 p.m.

[Post-meeting Note: The Secretariat took a look at the genealogy book of Mr Wong Hing Cheung (SLP-C3669) after the meeting and noted his Small House demand forecast for So Lo Pun.]