

**Minutes of the 1071st Meeting of the
Town Planning Board held on 24.10.2014**

Present

Permanent Secretary for Development
(Planning and Lands)

Chairman

Mr Thomas T.M. Chow

Mr Stanley Y.F. Wong

Vice-chairman

Mr Roger K.H. Luk

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Ms Bonnie J.Y. Chan

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Patrick H.T. Lau

Ms Christina M. Lee

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr F.C. Chan

Dr Eugene K.K. Chan

Mr Francis T.K. Ip

Mr Peter K.T. Yuen

Deputy Director of Environmental Protection
Mr C.W. Tse

Deputy Director of Lands
Mr Jeff Y.T. Lam

Assistant Director (s), Home Affairs Department
Mr Eric K.S. Hui

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

Director of Planning
Mr K.K. Ling

Deputy Director of Planning/District
Mr Raymond K.W. Lee

Secretary

Absent with Apologies

Professor S.C. Wong

Professor P.P. Ho

Mr Laurence L.J. Li

Ms Anita W.T. Ma

Dr W.K. Yau

Professor K.C. Chau

Mr Sunny L.K. Ho

Mr Dominic K.K. Lam

Mr David Y.T. Lui

Mr Frankie W.C. Yeung

In Attendance

Assistant Director of Planning/Board
Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board
Mr Louis K.H. Kau

Senior Town Planner/Town Planning Board
Mr T.C. Cheng

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 1070th Meeting held on 10.10.2014

[The meeting was conducted in Cantonese.]

1. The minutes of the 1070th meeting held on 10.10.2014 were confirmed without amendments.

Agenda Item 2

[Open meeting]

Matters Arising

Proposed Amendments to the Draft To Kwa Peng and Pak Tam Au Outline Zoning Plan (OZP) No. S/NE-TKP/1 arising from the Consideration of Representations and Comments on OZP No. S/NE-TKP/1

[This item will be conducted in Cantonese.]

2. The Secretary reported that the Draft To Kwa Peng and Pak Tam Au OZP No. S/NE-TKP/1 (the Plan) was gazetted for public inspection in January 2014. During the statutory public inspection period, a total of 7,689 representations and 980 comments were received. After considering the representations and comments for the Plan on 6.10.2014, the Town Planning Board (the Board) decided to partially uphold some representations by rezoning the part of the “Village Type Development” (“V”) zone to the south of the channelised stream in Pak Tam Au to “Agriculture” (“AGR”).

[Mr Francis T.K. Ip arrived to join the meeting at this point.]

3. As a result of the proposed amendment, the area of the “V” zone in Pak Tam Au would be reduced from 3.4 ha to 2.52 ha, with 1.16 ha of land still available for Small House developments (or 46 Small Houses), which could fully meet the total Small House

demand of 35 of Pak Tam Au (comprising outstanding Small House demand of 10 and 10-year Small House demand forecast of 25) with a surplus of about 0.28 ha of land (or 11 Small House sites).

4. In relation to the proposed rezoning from “V” to “AGR”, the Notes for the new “AGR” zone had been added. The Explanatory Statement (ES) of the Plan would be amended to reflect the proposed amendments.

5. Members agreed that the proposed amendments to the Plan as shown at Annexes I and II of the Paper were suitable for publication for public inspection in accordance with section 6C(2) of the Town Planning Ordinance; and the revised ES at Annex III of the Paper was suitable for publication together with the draft OZP.

New Town Planning Appeal Received

(a) Town Planning Appeal No. 9 of 2014
Proposed House (New Territories Exempted House (NTEH) – Small House) in
“Agriculture” Zone, Lot 626 S.A in D.D. 82, Lei Uk Tsuen, Ta Kwu Ling
(Application No. A/NE-TKL/467)

(b) Town Planning Appeal No. 10 of 2014
Proposed House (New Territories Exempted House (NTEH) – Small House) in
“Agriculture” and “Village Type Development” Zones, Lot 626 R.P. in D.D.
82, Lei Uk Tsuen, Ta Kwu Ling
(Application No. A/NE-TKL/468)

[This item will be conducted in Cantonese]

6. The Secretary reported that two Notices of Appeal dated 3.10.2014 against the decision of the Board on 1.8.2014 to reject on review two applications (No. A/NE-TKL/467 and A/NE-TKL/468) for Small House development at two adjacent sites zoned “Agriculture” (“AGR”) and “AGR” and “Village Type Development” (“V”) respectively on the approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14 were received by the Appeal Board Panel (Town Planning) on 10.10.2014.

7. The two applications were rejected by the TPB for the reasons that:
- (a) the proposed development was not in line with the planning intention of the “AGR” zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention; and
 - (b) land was still available within the “V” zone of Lei Uk Tsuen where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.
8. The hearing dates of the appeals were yet to be fixed. The Secretary would act on behalf of the TPB in dealing with the appeals in the usual manner.

Appeal Statistics

9. As at 24.10.2014, the appeal statistics is as follows :

Allowed	:	31
Dismissed	:	132
Abandoned/Withdrawn/Invalid	:	182
Yet to be Heard	:	17
<u>Decision Outstanding</u>	:	<u>2</u>
Total	:	364

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

Sai Kung & Islands District

Agenda Item 3

[Open meeting (Presentation and Question Sessions only)]

Consideration of Representations and Comments to the Draft Cheung Chau Outline Zoning Plan (OZP) No. S/I-CC/6

(TPB Paper No. 9756)

[The hearing was conducted in Cantonese and English]

Declaration of Interests

10. The following Members had declared interests in this item :

Mr Lincoln L.H. Huang - being the shareholder and director of a company which owned a flat in Lung Tsai Tsuen, Cheung Chau

Dr W.K. Yau - being involved in the operation of an education centre in Cheung Chau

11. As the property owned by Mr Lincoln L.H. Huang and the education centre operated by Dr W.K. Yau were not located in the vicinity of the representation sites, Members agreed that Mr Huang should be allowed to stay in the meeting and noted that Dr W.K. Yau had tendered his apology for being unable to attend the meeting.

Presentation and Question Sessions

12. The Chairman said that sufficient notice had been given to all the representers and commenters inviting them to the hearing, but other than those who were present or indicated that they would attend the meeting, the rest had either indicated not to attend the hearing or made no reply. As reasonable notice had been given to the representers and

commenters, Members agreed to proceed with the hearing in their absence.

13. The following representatives from the Planning Department and representers' representatives were invited to the meeting.

Mr Ivan M.K. Chung - District Planning Officer/Sai Kung & Islands (DPO/SKIs), Planning Department (PlanD)

Mr Kenny C.H. Lau - Senior Town Planner/Islands (1) (STP/Is(1)), PlanD

R1 – Lucky Ltd

Mr Ian Brownlee)
Miss Kira Brownlee) Representer's Representatives
Mr Nick Chappell)

R2 – Corona Land Co Ltd

Mr Chan Kim On)
Mr Kelvin Chan) Representer's Representatives
Mr Ng Kim Wan, Edwin)

14. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the background of the representations. With the aid of a Powerpoint presentation, Mr Kenny C.H. Lau, STP/Is(1) made the following main points as detailed in the Paper :

Background

(a) on 11.4.2014, the draft Cheung Chau OZP No. S/I-CC/6 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). The Amendments were :

- (i) Amendment Item A – rezoning a site at Ping Chong Road from “Other Specified Uses” (“OU”) annotated ‘Shipyard and Ship Repairing Workshop’ to “Commercial (3)” (“C(3)”) to reflect a section 12A application (No. Y/I-CC/1) approved by the Rural and New Town Planning Committee (the Committee) on 10.8.2012 for restaurant use;
 - (ii) Amendment Item B1 – rezoning a site (Cheung Chau Inland Lot (CCIL) No.11) at Fa Peng Road from “Government, Institution or Community (4)” (“G/IC(4)”) to “Residential (Group C)7” (“R(C)7”) to reflect a section 12A application (No. Y/I-CC/2) approved by the Committee on 21.6.2013 for house development;
 - (iii) Amendment Item B2 – rezoning a piece of Government land at Fa Peng Road generally to the south, west and north of CCIL No.11 from “G/IC(4)” to “Green Belt” (“GB”);
 - (iv) Amendment Item B3 – rezoning a piece of Government land at Fa Peng Road generally to the east of CCIL No.11 from “G/IC(4)” to “R(C)8”; and
 - (v) Amendment Item C – rezoning a piece of Government land to the east at Fa Peng Road adjoining the “G/IC(4)” zone from “R(C)5” to “R(C)8”;
- (b) during the two-month exhibition period, a total of two representations were received. On 27.6.2014, the representations were published for 3 weeks for public comments. Upon the expiry of the publication period on 18.7.2014, 4 comments on the representations were received. On 19.9.2014, the Board decided to consider all the representations and comments collectively in one group at its regular meeting;

- (c) R1 was submitted by the owner of CCIL No. 11, 15 Fa Peng Road, who partly supported Amendment Items B1 and B2 and partly objected to Amendment Item B3. The supportive view was that the change in zoning was in line with the current housing policies to find suitable sites for residential development;
- (d) the objecting view of R1 was that the south-western portion of Amendment Item B3 adjoining his lot was very narrow and not usable for residential purpose. If large walls were erected on this portion of the site, it would adversely affect his site under Amendment Item B1;

[Ms Julia M.K. Lau and Miss Winnie M.W. Wong arrived to join the meeting at this point.]

- (e) R2 was submitted by Corona Land Co. Ltd. who owned a piece of land to the north of Amendment Items B3 and C (i.e. CCIL No. 47 and Lot 21 and the Extension Thereto). R2 objected to Amendment Items B3 and C as he considered that the policy initiatives to increase the development intensity of the low density zone in New Town by 100% should apply to both private lots and government land as long as they were permissible in planning term;
- (f) R2's site fell within the northern part of the "R(C)5" zone, the southern part of which was rezoned to "R(C)8" under Amendment Item C. R2 claimed that the inclusion of R2's site into the "R(C)8" zone would achieve integration of development to form a reasonable size of land use pattern and would avoid small, fragmented and chaotic local land use planning pattern;
- (g) based on a maximum PR of 0.8 for the "R(C)8" zone, R2's site and the adjoining government land (about 2,154m²) could provide 12 units more than that could be developed under the current "R(C)5" zone to meet the pressure on housing supply (assuming an average unit size of some 70m²), and it could be realized within a short period of time;

- (h) the increased development intensity would off-set the vast amount of upfront construction cost, without which R2's site would continue its existing status and remain unoccupied and ruined;

Representers' Proposals

- (i) R1 proposed to either incorporate the south-western portion of Amendment Item B3 adjoining CCIL No.11 into the "GB" zone or "R(C)7" zone;
- (j) R2 proposed to rezone his site and the adjoining government land from "R(C)5" to "R(C)8" with a maximum plot ratio (PR) of 0.8, maximum site coverage (SC) of 40% and maximum building height (BH) of 3 storeys;

Comments on Representations

- (k) all 4 comments (C1 to C4) received were on R2. They supported the grounds raised by R2 to fully utilize the land resources by taking into account the idle and deserted private land for development purpose in Cheung Chau;

Responses to Grounds of Representations/Comments

- (l) the supportive views of R1 (part) on Amendment Items B1 and B2 were noted;
- (m) the south-western portion of Amendment Item B3 adjoining CCIL No. 11 was a piece of vacant government land already formed. It could be optimized by merging with the adjoining unleased government land zoned "R(C)8" for residential development. Despite the narrow configuration and irregular shape, its amalgamation with the "R(C)8"

zone could optimize the development potential of the site. The entire “R(C)8” zone was anticipated to produce about 40 flats which would maintain the low-rise, low density character of the “R(C)” zone whilst optimizing the development potential of the site;

- (n) as advised by the Chief Town Planner/Urban Design and Landscape Unit (CTP/UD&L), PlanD, a landscape screen buffer and/or a non-building area (NBA) between the “R(C)7” and “R(C)8” zones could be provided. The NBA requirement could be incorporated in the land lease;
- (o) as for R2’s ground of representation, planning assessments had been conducted for the potential residential use at the “R(C)8” site to ensure the suitability of the site for residential development. Proposal to increase the development intensity of private lots could be submitted by the project proponent with relevant assessments to the Board for consideration through the planning application mechanism. Each case would be considered on its individual merits;
- (p) cumulative impact resulted from increasing the development intensity of R2’s site had yet to be considered in the rezoning of “R(C)8”. Cumulative impact on existing infrastructure in terms of traffic, drainage, sewerage and water supply should be assessed to demonstrate that there was no adverse impact on the existing infrastructure;
- (q) there were existing residential developments in the vicinity. If R2’s site within the “R(C)5” zone were rezoned to “R(C)8”, it would set a precedent for similar requests for increasing the development intensity of other private lots within the “R(C)” zone, resulting in cumulative impact on the infrastructural capacities of the area;

Responses to Representations' Proposals

- (r) the existing extent of the “GB” zone was more appropriate to reflect the existing vegetation coverage and site condition. The rezoning of the south-western portion of Amendment Item B3, which was a piece of barren land built as a platform with no vegetation, to “GB” was not supported. Alternatively, the “R(C)7” zone proposed by R1 would still permit building structures to be erected on the concerned area, which would not address R1’s concern. A buffer area between the “R(C)7” and “R(C)8” zones was recommended to be incorporated in the land lease when the site zoned “R(C)8” was disposed of;

[Mr Clarence W.C. Leung and Dr. Eugene K.K. Chan arrived to join the meeting at this point.]

- (s) rezoning of R2’s site from “R(C)5” to “R(C)8” without assessing the infrastructural impacts might set an undesirable precedent for similar zoning amendments with similar increase in development intensity of the residential zones. Cumulative impact of such amendments could not be ascertained at this stage; and

PlanD’s Views

- (t) PlanD’s views on the representations were summarised in paragraph 6 of the Paper. They were summarised as follows :
 - (i) R1 (Part)’s support for Amendment Items B1 and B2 was noted; and
 - (ii) PlanD did not support R1 (Part) and R2 and their proposals, and considered that the Plan should not be amended to meet the representations.

15. The Chairman then invited the representers' representatives to elaborate on their submissions.

R1 – Lucky Ltd

16. With the aid of a Powerpoint presentation, Mr Ian Brownlee, the representative of R1, made the following main points :

- (a) the rezoning of R1's site to reflect the approved s.12A rezoning application and the surrounding area to "GB" was generally supported. The only concern was the narrow strip of land of about 2-4m in width on the south-western portion of Amendment Item B3 adjoining his site;
- (b) the concerned strip of land was already paved and not vegetated. It was incapable of being developed for residential use due to the narrow configuration, except for including the site area for gross floor area (GFA) calculation. The residential development at R1's site was constrained by the lease restriction and the future house would be built up to the southern lot boundary; and
- (c) he agreed with PlanD that his alternative proposal to rezone this narrow strip of land to "R(C)7" was impractical, but considered that this strip of land should be rezoned to "GB" for the following reasons :
 - (i) the zoning boundary of the adjacent new "R(C)8" zone could be rationalized;
 - (ii) the concerned strip of land had an area of only about 96m² and the loss of domestic GFA as a result of rezoning it to "GB" was insignificant;

- (iii) the area could be regenerated and become part of the green belt; and
- (iv) PlanD had proposed to restrict the concerned strip of land as an NBA in the lease condition. However, lease matter was not an issue the Board could determine. Rezoning this narrow strip of land to “GB” on OZP was a more acceptable approach.

R2 – Corona Land Co. Ltd.

17. With the aid of a Powerpoint presentation, Mr Chan Kim On, the representative of representer R2, made the following main points :

- (a) it was stated in the 2014 Policy Address that the Government had adopted strategies to increase the land supply in the short, medium and long-term. There was a pressing need to utilize the scarce land resource efficiently for housing development or redevelopment;
- (b) R2 supported the Government’s policy of increasing land supply. The representation was made to increase housing supply and the suggestion could be implemented within a short period of time;
- (c) although the representer could submit proposal to the Board through the planning application system to increase the development intensity of his site, the rezoning process was lengthy (about 3 years) and could not readily address the current housing shortage problem. If the Board agreed to rezone R2’s site and the adjacent government land to meet his representation, the rezoning process could be shortened by 1.5 years. This would be in line with the Policy Address to increase housing supply in the short-term;
- (d) regarding the cumulative impact of rezoning the representer’s land, he

pointed out that according to the Chief Engineer/Consultants Management of Drainage Services Department (CE/CM, DSD), no new sewers would be proposed under the “Upgrading of Cheung Chau and Tai O Sewage Collection, Treatment and Disposal Facilities – Design and Construction” Project to cover the portion of “R(C)5” (i.e. R2’s site) due to its substantial level difference from the footpath. As R2’s site would not be served by the sewage system, septic tanks and soakaway system would be provided in the future development at the site. There would not be any adverse impact on the sewage disposal and no cumulative adverse impact would be resulted;

- (e) there was no vehicular traffic in Cheung Chau. Fa Peng Road and Ming Fai Road were narrow footpaths. An increase in 12 residential units would have no adverse traffic impact on the surrounding area;
- (f) building plans for all developments, including R2’s site, would be submitted to the Buildings Department for approval and drainage plans would need to be approved by DSD at building plans submission stage. DSD and the Water Supplies Department had not raised any concern on the drainage and water supplies aspects respectively. There would not be any insurmountable problem in terms of drainage and water supply as a result of an increase in 12 flats by rezoning R2’s site; and
- (g) if the Board agreed to meet the representation by rezoning R2’s site to “R(C)8”, R2’s site and the government land to the south would provide a total of 65 flats within a short period of time.

18. As the representatives of PlanD and the representers had finished their presentations, the Chairman invited questions from Members.

19. In response to the Chairman’s question on the feasibility of incorporating the narrow strip of land to the south of R1’s lot as NBA under the lease, Mr Ivan M.K. Chung,

DPO/SKIs, said that PlanD was still working with LandsD on the lease conditions of the “R(C)8” site and LandsD had agreed to incorporate a lease condition requiring an NBA at the narrow strip of land in question as well as submission of a landscape plan to ensure that the future development at the “R(C)8” site would not have any adverse visual impact on the surrounding area. The landscape plan would be submitted to LandsD for approval and PlanD would be consulted, while the NBA requirement would be scrutinized at building plan submission stage.

20. The Chairman asked Mr Chan to elaborate on the reasons for not resorting to the planning application system to increase the development potential of his client’s site with the support of technical assessments. In response, Mr Chan said that it would take at least a year and a half from the time of submitting a rezoning application to the actual gazetting of the amendments to and approval of the OZP. Taking into account the time for subsequent lease modification, it would take up to a total of 3-4 years before the proposal could be implemented which was not in line with the Policy Address to increase housing supply in the short-term. There were a total of 6 sites zoned “R(C)5” on the OZP and the up-zoning of R2’s site would act as a catalyst for developing these other sites. Given that R2’s site and the adjoining “R(C)8” site to the south shared the same site characteristics, it would be logical to rezone R2’s site to “R(C)8”.

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

21. The Chairman asked Mr Chan to further elaborate on the reason why the Board should meet his representation in the absence of the relevant technical assessments to support his proposal. In response, Mr Chan said that any concerns on technical constraint could be addressed at the building plans submission stage. Apart from the sewerage aspect, no specific concerns were raised by relevant departments on the proposal and there would be no insurmountable technical problem arising from the proposed increase in the development intensity of the representation site which would only result in an addition of 12 flats.

22. The Chairman asked DPO/SKIs whether R2’s suggestion to increase the development intensity of the representation site could be achieved through a rezoning

application under section 12A of the Ordinance or a planning application under section 16 of the Ordinance. Mr Ivan Chung explained that there was a provision in the Notes of the OZP for the “R(C)5” zone to relax the development restriction through the planning application system. If R2 was seeking an increase in the plot ratio by 100%, i.e. from PR 0.4 to PR 0.8, a rezoning application under section 12A of the Ordinance would be more appropriate.

23. The Chairman asked Mr Brownlee whether the LandsD’s agreement for incorporating the NBA requirement in the lease would be able to address R1’s concern. Mr Brownlee replied that the future development within the “R(C)8” zone would involve significant tree removal. Since the overall GFA contribution by rezoning this narrow strip of land to “R(C)8” was insignificant, it would be logical for the Board to amend the zoning boundary of the “R(C)8” zone by excluding this strip of land for the regeneration of green belt. The incorporation of a lease condition on the provision of an NBA was better than having a wall in front of R1’s site, but it was not the ideal solution. Rezoning the strip of land to “GB” would return the land to the natural state while the NBA would only create a man-made landscaped area forming part of the “R(C)8” site.

[Mr Eric K.S. Hui left the meeting temporarily at this point.]

24. Mr Chan suggested that lease conditions could be imposed to require the submission of technical assessments for the future development at R2’s site. The Chairman said that if the suggestion was adopted, it would mean that all developments could be approved subject to the submission of technical assessments under the lease condition, and it would not be necessary for the Board to assess each application on its merits. In response, Mr Chan said that R2’s site to its immediate north of the proposed “R(C)8” zone under Amendment Item C shared the same site characteristics and it should not have any significant adverse impact likewise.

25. As Members did not have any further questions, the Chairman said that the hearing procedure had been completed and that the Board would deliberate on the representations and comments in the absence of the representers, and would inform them of the Board’s decision in due course. The Chairman thanked the representers’

representatives and the representatives of PlanD for attending the hearing. They all left the meeting at this point.

[Dr Eugene K.K. Chan left the meeting temporarily at this point.]

Deliberation

26. The Chairman said and Members agreed that the supporting views from R1 (part) should be noted.

27. The Chairman recapitulated that the inclusion of the narrow strip of land to the south of R1's site could optimize the development potential of the "R(C)8" zone. LandsD had no objection to incorporating a lease condition to require the provision of an NBA at the subject area, which would address R1's concern. The Vice-chairman said that while the contribution of this narrow strip of land to increase GFA at the adjacent "R(C)8" site was not significant, the area was now a piece of barren land which might not be able to be regenerated into a green belt. Considering the current state of the area, Members considered that the "R(C)8" zoning was appropriate, and the adverse representation of R1 (Part) should not be upheld.

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

28. Regarding R2's proposal of rezoning his site from "R(C)5" to "R(C)8", the Chairman said that it was the established practice for the Board to consider the findings of relevant technical assessments before making a decision on rezoning proposal. In the absence of such assessments, Members agreed that R2 should not be upheld.

29. After deliberation, the Board decided to note R1(Part)'s support for the Amendment Items and not to uphold Representations No. R1 (Part) and R2 and considered that the Plan should not be amended for the following reasons :

"Narrow configuration of the area zoned "Residential (Group C)8" ("R(C)8") to the immediate south of Cheung Chau Inland Lot (CCIL) No.11 and the rezoning

proposal from “R(C)8” to “Green Belt” (“GB”) or “Residential (Group C)7” (“R(C)7”) (R1 (part))

- (a) The narrow strip of land at the south of CCIL No.11 is already formed with no vegetation. It can be amalgamated with the adjoining government land for better utilization of land resources as part of the “R(C)8” zone for residential development. Rezoning this piece of land with no vegetation as “GB” is considered not appropriate.
- (b) Provision of a buffer area between the “R(C)7” (i.e. CCIL No.11) and “R(C)8” zones could be incorporated in the land lease of the “R(C)8” site so as to reduce its impact on the surrounding development.

Ineffective to achieve policy initiatives and unfair land use planning treatment (R2)

- (c) The Government is committed to expanding land resources for Hong Kong. Private proposal should be submitted with the support of relevant assessments by the project proponent through the planning application mechanism and the Board will consider each proposal on its individual merits.

Lack of adequate incentive to achieve the policy initiative and the rezoning proposal from “Residential (Group C)5” (“R(C)5”) to “R(C)8” (R2)

- (d) Rezoning of the concerned site from “R(C)5” to “R(C)8” without assessing the infrastructural impacts may set a precedent for rezoning applications with similar increase in development intensity of the residential zones, resulting in cumulative impact on the infrastructural capacities of the area.”

Kowloon District

Agenda Item 4

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/K18/309

Proposed Ancillary Car Park for Religious Institution (for occasional use) in “Open Space”

Zone, Diocesan Preparatory School playground at Chester Road, Kowloon Tong

(TPB Paper No. 9758)

[The meeting was conducted in Cantonese and English]

Presentation and Question Sessions

30. The following Members have declared interests in this item:

- | | |
|------------------------|---|
| Ms Julia M.K. Lau | - family members living in Waterloo Road, Kowloon Tong |
| Mr Clarence W.C. Leung | - living in La Salles Road, Kowloon Tong |
| Ms Christina M. Lee | - owning properties and car parks in Durham Road, Kowloon Tong |
| Mr David Y.T. Lui | - owning a flat at Yau Yat Chuen |
| Ms Janice W.M. Lai | - co-owning properties with her spouse in Earl Street, Kowloon Tong |
| Mr Ivan C.S. Fu | - having business dealing with the Masterplan Ltd, the representer’s representative |

31. Members agreed that as the properties owned by the above Members or their family members were not located in the vicinity of the application site and Mr Ivan C.S. Fu had no involvement in the project, they should be allowed to stay in the meeting. Members noted that Mr David Y.T. Lui had tendered his apology for being unable to attend the meeting and Ms Janice W.M. Lai had not yet arrived to join the meeting. Mr H.F. Leung declared an interest that he had provided advice to a commenter on this application.

[Ms Christina M. Lee and Mr. H F Leung left the meeting temporarily and Dr Eugene K.K. Chan returned to join the meeting at this point.]

32. The following representatives from the Planning Department (PlanD) and the applicants were invited to the meeting at this point :

Mr Tom C.K. Yip	- District Planning Officer/Kowloon (DPO/K), PlanD
Mr Ian Brownlee)
Rev Ross Royden) Applicants' representatives
Ms Wendy Ng)
Miss Kira Brownlee)

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

34. With the aid of a Powerpoint presentation, Mr Tom C.K. Yip, DPO/K, presented the review application and covered the following main points as detailed in the Paper :

Background

(a) on 3.3.2014, the applicant, Christ Church, Kowloon Tong represented

by Masterplan Limited, sought planning permission under section 16 of the Town Planning Ordinance (the Ordinance) for the proposed occasional use of a site at Chester Road (the Site) for ancillary car park (50 parking spaces) for a religious institution (the nearby Christ Church). The applicant proposed to use the Site as a car park to serve the church occasionally (mainly on Sundays and public holidays) when the school was not using it. The playground could accommodate about 50 vehicles;

[Mr Eric K.S. Hui returned to join the meeting at this point.]

- (b) on 27.6.2014, the Metro Planning Committee (MPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were :
 - (i) the proposed development was not in line with the planning intention of the “Open Space” (“O”) zone for public open space development; and;
 - (ii) the approval of the application would set an undesirable precedent for similar applications in the “O” zone, the cumulative effect of which would adversely affect the open space provision of the area.

The Site and the Surrounding Area

- (c) the Site was zoned “O” on the draft Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/18. It was a piece of government land of about 1,392m² in size currently used as a playground by Diocesan Preparatory School (DPS) under a Government Land Permit K0671 (the Permit) commenced in 1960;
- (d) the Site was surrounded by Chester Road on all sides, which was a

one-way street. Low-rise residential developments were located to the eastern side of the Site while some government, institution or community (GIC) uses, including the Christ Church, DPS, a kindergarten and the Vicarage of the Christ Church, were located on the western side;

Planning Intention

- (e) the planning intention of the “O” zone was primarily for the provision of outdoor open-air public open space for active and/or passive recreational uses serving the needs of local residents as well as the general public;

Applicant’s Justifications

- (f) the applicant had provided written submission in the review application and the main points were :
 - (i) the application was to regularise an activity that had been taking place for over 40 years on the site. The reasons for rejection of the application by the Board were not reasonable;
 - (ii) the proposal was in line with the planning intention of the “O” zone for public open space development. The proposed use did not adversely affect the use of the playground as an open space. ‘Religious Institution’ and ‘Public Vehicle Park’ were options in Column 2 of the “O” zone, which were in line with the planning intention of the “O” zone. The proposed car park would only operate at times when the open space was not required for its primary use as DPS’ playground. DPS had the exclusive use of the Site under the Permit. DPS was a non-fee charging Government aided school and Christ Church was one of the two sponsoring

bodies of the school and should be considered as part of the school organisation;

- (iii) the approval of the application would not set a precedent for similar applications in the “O” zone as the relationship of Christ Church and DPS and the occasional car park use for over 40 years was unique in this case. The open space provision of the area would not be adversely affected;
- (iv) there would not be any adverse impact on the current traffic situation in Kowloon Tong as it was to regularise an existing use. Rejection of the application, on the other hand, would have a significant negative impact on the traffic flow in Kowloon Tong, as there was an insufficient number of car parks for the number of parishioners who drove, resulting in cars slowly circling the area looking for available car parks, and possibly even illegal car parking. The proposed use of the Site for parking was a practical and reasonable solution to the parking demand; and
- (v) approval of the application would not restrict future implementation of public open space at the Site. Any permission granted would only be in existence for as long as DPS has a permit for using the Site as playground, and would lapse when the Leisure and Cultural Services Department (LCSD) implemented the open space development;

Departmental Comments

- (g) the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD) commented that the Permit was issued to DPS for the purpose of playground. The proposed ancillary car park for religious institution (for occasional use) under application was in

breach of the condition of the Permit. If the subject application was approved by the Board, the applicant would need to apply to his office for approval as appropriate, subject to policy support to be given by the relevant policy bureau;

- (h) the Director of Leisure and Cultural Services (DLCS) had no comment on the application and advised that there was no development programme for the subject “O” zone;
- (i) the Secretary for Education (SED) had no comment on the application as long as the students’ activities would not be affected. As the area of playground inside DPS was well below the standard provision of an aided primary school, termination of the Permit to DPS for playground use was considered undesirable from education perspective. With regard to the commenters’ request that use of the playground should be shared with other nearby schools, SED did not have a mechanism to allocate or share a playground by different schools and it was not feasible for SED to take up a temporary Government Land Allocation of the subject Government land;
- (j) the Commissioner for Transport (C for T) had no in-principle objection to the application and suggested that approval conditions restricting the car park use for private car and on Sundays and public holidays only. He commented that if the application was rejected, the church-goers might use the roadside metered parking spaces in the vicinity and public transport service;
- (k) other relevant government departments maintained their previous views of no objection to/no comments on the application;

Public Comments

- (l) a total of 3,269 public comments were received at the planning

application stage. Out of these comments, 2,501 supported the application and 548 comments objected to the application;

[Mr Jeff Y.T. Lam arrived to join the meeting at this point.]

- (m) at the review stage, a total of 212 public comments were received with 211 supporting/in favour and 1 objecting to the application;
- (n) the supporting comments were mainly on the grounds that the church had been using the playground for an occasional car park for a long time, which provided convenience to the church and to the neighbours. The occasional car park use was an efficient use of land and would not affect the normal playground use by DPS and was a practical way of solving the car parking problem, rejecting the application would have significant adverse traffic impact on traffic in Kowloon Tong as church-goers would circle around the area looking for parking spaces, and the share use of the playground would enable easy access to the church by disabled members;
- (o) the only objecting comment was from a property company and the main reasons were that the one-way street in the vicinity could not cope with the traffic volume, the approval of the application would encourage more church-goers to drive to the church, aggravating the traffic congestion, the emission and leakage of petroleum from vehicles at the car park would affect the environment. The playground should be open for use by other voluntary organisations to benefit the public at large;

PlanD's Views

- (p) PlanD did not support the review applications based on the planning consideration and assessments in paragraph 7 of the Paper, which

were summarised below :

- (i) the Site was zoned “O” for open space development. Although there was no programme for the open space development, the proposed occasional car park use by the church was considered not in line with the planning intention of the “O” zone for the Site. The Permit was granted to DPS for playground use and there was no direct relationship with the proposed car park use by the church;
- (ii) regarding the the applicant’s claim that the occasional car park had been taking place for 40 years, DLO/KE pointed out that the occasional car park use by the applicant had breached the terms of the Permit which was for a different party, i.e. DPS, as a school playground;
- (iii) C for T pointed out that the church-goers might use the existing roadside metered parking spaces in the vicinity of the Site or public transport service along Waterloo Road close to the Church. The traffic impact generated from rejection of the application would unlikely be significant if the church-goers used these existing parking and public transport services; and
- (iv) the approval of the application without strong justifications would set an undesirable precedent for similar applications in "O" zone, the cumulative effect of which would adversely affect the open space provision of the area.

35. The Chairman then invited the applicants’ representatives to elaborate on the review application. With the aid of a Powerpoint presentation, Mr Ian Brownlee, the applicant’s representative, made the following main points :

- (a) the land on the western side of Chester Road was owned by Christ Church and its related organisations. This area was zoned “G/IC(4)” and the uses, i.e. the DPS, the church and its Vicarage, were permitted as of right within the “G/IC(4)” zone;
- (b) the Church and the school were very closely integrated both physically and in terms of organisation. Part of the school was built on land owned by the church and the Church Hall was on the first floor of the school building. The school used the church hall everyday and the church used the school building on Sundays for Sunday School;
- (c) the playground in the centre of Chester Road had been held by the school since 1950 and the school had recently up-graded the playground. For more than 40 years, the school had enabled the parking of cars on the playground by members of the congregation during services at the church, when the school was not using the playground;
- (d) the occasional car parking use of the playground started before the first OZP was gazetted for Kowloon Tong in 1979 and had an existing use right status, which should be tolerated. The planning application for the continuation of this use was not necessary, but was only submitted so that the existing use could be regularised under the Permit;
- (e) the playground could accommodate about 60 cars. The provision of occasional parking at the playground would ensure that there was adequate parking for church-goers, and in turn ensuring that there would not be illegal parking on the adjacent roads on Sundays and festival days such as Easter and Christmas, and on other days when the church was used for service;

36. Ms Wendy Ng, the Principal of DPS, made the following main points :

- (a) she knew the area well as she used to go to school in this area and had later served DPS for over 20 years. DPS was a subsidised school and school fee was not levied; and
- (b) as the school site was sub-standard in size, the playground was granted to the school under the Permit. The normal school activities were not affected by the occasional parking which would only take place on Sundays and public holidays. As such, the school gave their support to the church in this application

[Ms Julia M.K. Lau and Mr Clarence W.C. Leung left the meeting temporarily at this point.]

37. Rev. Ross Royden, the Vicar of Christ Church and Chairman of the Church Council, who was also the Supervisor of DPS and Chairman of the School Council, made the following main points :

- (a) the Church was involved in education and supported several local community organisations to serve the whole community. It was self-finance and did not receive any external funding. The Church had a close relationship with the school, which was originally founded and built by Christ Church on land owned by the church; and
- (b) in the past 50 years or so, the church had been using the playground as a car park on Sundays. It was genuinely believed that the occasional parking was entirely consistent with the terms of the Permit. It would greatly affect people coming to the church, especially the elderly as well as the disabled, if the application was rejected.

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

38. Mr Ian Brownlee then made the following points :

- (a) a Traffic Impact Assessment (TIA) was submitted in support of the application. The TIA indicated that there were only 4 metered car parking spaces in the immediate vicinity of Chester Road and no vacant spaces were available in the vicinity of the church on Sunday morning. The use of the playground as a car park for church-goers was a practical solution;
- (b) relevant government departments except PlanD had no objection to or no adverse comment on the application. In particular, C for T had no objection and proposed 2 approval conditions for the occasional car park use, which were generally acceptable. He requested that the approval condition regarding the occasional car park use by the church on Sundays and public holidays be expanded to cover other church services that might not fall on such days;
- (c) a public comment submitted by a District Council member, Dr Wong Yee Him, which had summarised the comments from residents that the car parking arrangement should not be changed without any concrete strategy for handling the parking problem;
- (d) the car park was for occasional use and the open space use was the predominant use. The car park was not permanent and it could be used by the church as long as the Permit for using the playground was granted to the school. 'Religious Institution' was included in Column 2 of the "O" zoning and the car park was an ancillary facility to the church; and

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

- (e) as the relationship of the school and the church was unique, approving the application would not set an undesirable precedent for similar application. The occasional parking would meet a real need and

prevent the creation of parking problems on the streets throughout the area.

39. As the presentation of the applicants' representatives was completed, the Chairman invited questions from Members.

Government Land Permit

40. The Vice-chairman asked whether the playground use for DPS was the only use stated in the Permit and whether there was any provision for other alternative uses during weekends or school holidays such as the summer holiday. In response, Mr Tom C.K. Yip said that it was clearly stated in the Permit that the use of the Site was for playground use and no other alternative uses were specified for the weekend and/or school holidays.

41. The Vice-chairman asked whether the school was the only party permitted to use the playground as stated in the Permit. In reply, Mr Yip said that the Permit was for playground use only and the Permit was granted to the school.

42. The Chairman asked whether a planning approval for the occasional car park was required to amend the user clause for the Permit. In response, Mr Jeff Y.T. Lam, Deputy Director of Lands, said that LandsD would consider amending the use in the Permit if such use could be considered as a temporary use permitted under the OZP, and there was no objection from the relevant departments to the use. Mr Yip supplemented that the covering Notes of the OZP had specified that temporary uses of 5 years or less were always permitted as long as they complied with any relevant legislation, the conditions of the government lease concerned and any other government requirements. However, as the applicant had claimed that the occasional car park had been carrying on for over 40 years and the intention was to continue such use on a longer term basis, whether it could be regarded as a temporary use in the context of OZP might be doubtful.

Existing Use Right

43. Noting that the applicant's representative and some commenters considered that there was an existing use right for the occasional car park, the Vice-chairman requested DPO/K to elaborate on how the existing use could be established. He also asked whether government departments had previously acknowledged the existence of the occasional car park.

44. Regarding the issue of existing use, Mr Yip said that the first OZP for Kowloon Tong was gazetted on 9.2.1979 and the covering Notes of the OZP stated that existing use, i.e. a use in existence before the publication of the first plan which had continued since it came into existence, would be tolerated. It was also stated in the Explanatory Statement of the OZP that any person who intended to claim an existing use right should provide sufficient evidence to support his claim. Although the applicant claimed that the occasional car park had been continued for over 40 years, only a photo of the Site being used as a car park taken in 1987 was submitted. There was insufficient evidence to establish that the car park use was in existence before 9.2.1979 and such use had been continued since then.

45. Mr Yip further said that in a letter issued by LandsD to the school in 2013, it was stated that the Government had not acknowledged the occasional car park use as claimed by the applicant. On this basis, PlanD found it difficult to accept that the occasional car park was an existing use. The Site had been zoned "O" since 9.2.1979 on the first OZP for Kowloon Tong and the planning intention for open space development was similar to that under the current OZP.

[Ms Bonnie J.Y. Chan arrived to join the meeting at this point.]

46. The Vice-chairman asked whether any occasional use of the Site that might have breached the Permit, e.g. a different use other than playground by a third party, could be considered an existing use. In response, Mr Yip said that in the letter from LandsD to the school mentioned above, DLO/KE considered that the occasional use on a regular basis should also comply with the Permit. Under the OZP, if the applicant could produce

strong evidence to demonstrate that the occasional car park for the church on a regular basis had been carrying on for the past 40 years or so, PlanD could consider the existing use claim favourably. However, no such evidence was submitted.

47. A Member asked DPO/K to clarify whether the principle of existing use was also applicable to private use on government land, and whether there was any clause in the Permit on its termination. In response, Mr Yip said that land ownership might not be directly relevant in establishing an existing use. Regarding the termination of the Permit, he understood that the Permit in question was renewable upon the payment of a nominal fee on an annual basis. The Government had the right not to renew the Permit if any user clause was breached.

48. The Chairman asked whether the applicant could demonstrate that the occasional car park was an existing use. In reply, Mr Ian Brownlee said that the LandsD's statement that the Government had no knowledge of the occasional car park did not categorically state that it did not take place. The playground had been used for an occasional car parking by the church for over 40 years. The arrangement worked well for both the church and the school, and the Government had not done anything to rectify the situation. The church perceived that the car park use of the playground on Sundays, which did not interfere with the playground use under the Permit, was tolerated. LandsD did not object to the occasional car park use as long as the situation was rectified by amending the Permit.

Traffic Impact

49. A Member asked what the likely traffic impact on the surrounding area would be if the playground could not be used for parking for the church on Sundays, whether other churches nearby had sought assistance from PlanD or LandsD to deal with similar parking problem, and whether the playground was fully utilized by the church for car parking on Sundays. In response, Mr Yip said that as advised by C for T, rejecting the current application for occasional car park would have no adverse traffic impact as there were on-street metered parking spaces and public transport service was also available. From his own experience, it was not unusual for congregates going to churches in the

urban area to use multi-storey carpark, road-side parking or public transport. While the application was for parking of 50 vehicles, it was stated in the TIA submitted by the applicant that it had recorded parking of 61 vehicles. Based on his site inspection, the playground was in general fully parked on Sunday during the church service. Rev. Ross Royden supplemented that the playground was once closed for a period of time for re-surfacing and church-goers parked their cars illegally on streets as there was no multi-storey car park in the vicinity of the church. He also clarified that there were about 300 people at the church during service and many of them used public transport.

[Mr. C.W. Tse left the meeting temporarily and Dr C.P. Lau returned to join the meeting at this point.]

Planning Intention

50. The Chairman asked whether car parking within the “O” zone was not in line with the planning intention of the “O” zone under the OZP as there were car parking facilities in parks within “O” zone managed by LCSD. In response, Mr Yip said that the car parking facilities at LCSD’s parks were ancillary facilities serving the main use as park, which was always permitted within the “O” zone and no separate planning permission was required. The ‘Public Vehicle Park’ in Column 2 of the “O” zone was meant for public use while the occasional car park in the current application was a private car park related to church use and not open to the general public. The Column 2 uses of the “O” zone would require planning application which would be assessed on individual merits.

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

51. The Chairman said that one of the rejection reasons for the application at s.16 stage was that the occasional car park use on Sundays and public holidays was not in line with the planning intention of the “O” zone. He asked the applicant whether his proposal for further use of the playground by the church for parking on other occasional church services would be a greater departure from the planning intention. Mr Ian Brownlee replied that the playground was the predominant use and the occasional use by the church, whether on Sundays or at any other time, would not interfere with the normal activities of

the school. The proposal was a practical solution to an existing parking problem. Rev. Ross Royden supplemented that the church operated 2 services on Sunday and there was no question of long-term or overnight parking. The vehicles would leave the car park soon after the church service was over. The church would clean up the playground after use. The other occasional times to be used by the church would be for Easter and Christmas, or for funeral services. For whatever the occasion, the school would have priority in using the playground.

52. Another Member asked about the opening hours of the car park on Sunday, whether there was any abuse of car park by users and whether the church would use the playground for parking at any other time. Ms Wendy Ng clarified that the church would also use the playground for parking during festive seasons such as Easter and Christmas. The church service would last for over an hour and church-goers would park their cars at the playground before the church service and would leave soon afterwards. The school would have priority in using the playground and the car park would not be opened if there were school activities at the playground on Sunday.

53. Another Member asked whether the application to rectify the occasional car park use was the result of complaints from local residents. Mr Brownlee replied that the church had been using the playground for car park for a very long time and complaints had only been received in the past few years. There was no dispute on the use and management of the playground by the school. The only issue to be considered was whether the occasional car park use on Sundays by the church should be allowed to continue.

54. Mr K.K. Ling, the Director of Planning, asked whether the church had considered using the forecourt of the Christ Church Vicarage at the north-western corner of the street block as car park for the church-goers. Rev. Royden replied that the church would provide parking at the Vicarage for people with genuine need. However, the forecourt was a raised platform and there was no vehicular access to the forecourt from Waterloo Road. The area accessible from Chester Road could only accommodate 2 cars.

55. Another Member asked whether the playground could be opened for parking

by the public on Sundays when it was not needed by the school, as suggested by a commenter. In reply, Mr Brownlee said that it was not possible to open the playground as a public car park as the relevant departments had commented that the area should be used predominantly as a playground, and its use as a car park should be restricted only for the church.

[Mr Peter K.T. Yuen left the meeting temporarily at this point.]

56. A Member asked who would be responsible for cleaning up the playground as there would be oil leakage from parked vehicles and who would use the tennis court and basket ball court at the playground during school holidays. Ms Wendy Ng clarified that the tennis court and basket ball court were substandard courts used for teaching purposes. Normally, the school would be responsible for the maintenance and cleaning of the playground as it was granted to the school. The church would clean up the playground after their use for car park on Sundays. There had never been any cleaning problem over the years, except for the occasional rubbish dumping by outsiders if the playground was not locked up properly. Rev. Royden supplemented that the church had employed workers to clean up and to lock the playground on Sundays after use. This arrangement had been in place for some time and there was no complaint from the school. He was a Supervisor of the school and he certainly would not accept a playground that was not in a good condition.

[Mr Peter K.T. Yuen returned to join the meeting at this point.]

57. As the Permit was granted to the school for playground use, a Member asked whether it was necessary to amend the Permit to include the church as a user if the Board approved this application for occasional car park.

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

58. Mr Brownlee clarified that the planning application was made by the church with full knowledge and support from the grantee of the Permit, i.e. DPS. If the application was approved, PlanD had recommended an approval condition to restrict the

car park use on Sundays and public holidays by the Christ Church. The Permit would still be granted to the school but would have to be amended to allow the use of the playground by the church for car park on Sundays and public holidays.

59. As Members had no further question, the Chairman informed the applicant's representatives that the hearing procedure for the review applications had been completed. The Board would deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and DPO/K for attending the meeting. They left the meeting at this point.

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

[Mr Patrick H.T. Lau and Mr Eric K.S. Hui left the meeting at this point.]

Deliberation

61. The Chairman asked Members to consider whether the occasional car park was an existing use as claimed by the applicant. If affirmative, an application would not be necessary and the Board would have no mandate to consider the matter. Members might consider if the evidence produced by the applicant, i.e. a photograph of the playground as car park in 1987 and the oral submission by Ms Wendy Ng, was sufficient to prove that the car park had existed before the first OZP in 1979 and such a use had been carrying on continuously since then.

62. A Member considered that there was no strong evidence at this stage for the Board to determine whether the car park was an existing use. The Member suggested that the Board only note that the applicant had such a claim and proceed to consider the review application as presented.

63. At the request of the Chairman, Mr K.K. Ling clarified that if the Board was convinced that the car park was an existing use and such a use had been carrying on continuously, then it was not necessary for the Board to consider the application. In order that a use could be accepted as an existing use, strong evidence had to be provided to

support the claim that such a use had existed at the Site before the gazetting of the first OZP for the area, and that the use had continued ever since. The Vice-chairman said that it would be the applicant's responsibility to provide evidence to support his claim for existing use right. In this case, the photograph of the playground taken in 1987 could not prove that the car park had existed before the gazetting of the first OZP in 1979 and the Board should proceed with the consideration of the application. Another Member agreed with the view of the Vice-chairman. After some further discussion, the Chairman concluded that the Board noted the applicant's claim on the existing use status for the occasional car park use. However, in view that the evidence provided by the applicant was not sufficient to establish whether or not it was an existing use, the Board would proceed to consider the application as presented.

64. The Chairman pointed out that as the Permit had been granted to the school for playground use, the planning intention for the provision of open space development for public use could not be realized.

65. The Vice-chairman said that although the existing use status of the car park could not be established, the occasional car park use on a regular basis had been carrying on at the Site for quite some time. In view that the car park use did not affect the normal use of the Site by the school as a playground and it had no adverse impact on the surrounding area, it could be approved on a temporary basis until the Site was to be developed into a public open space. A Member supported the view of Vice-chairman and considered that sympathetic consideration should be given for the occasional car park.

66. Another Member said that the playground was granted to the school. The occasional car park by the church which was in close relationship with the school would likely continue even if the planning approval was given on a temporary basis. As such, it might be difficult for the Board to say that the approval was temporary. Mr K.K. Ling said that the playground was granted to the school as the school site was substandard. As the occasional car park had been carrying on for a considerable period and there was no significant adverse impact on the local community, he considered that a temporary approval on sympathetic ground was reasonable. The temporary grant of playground site to the school would be terminated in the event that the school was redeveloped elsewhere

in future, and the site could then be used as a public open space as originally planned.

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

67. Another Member also agreed that sympathetic consideration should be given and a temporary approval could be given, as there would be some adverse traffic impact if the occasional car park was discontinued in view of inadequate on-street parking was available in the vicinity of the Site.

68. A Member asked whether the Board should request the applicant to open the occasional car park for public use on Sundays to respond to the request from some commenters. The Chairman said that it might not be acceptable to LandsD to allow the school to use the playground as a public car park on Sundays. Mr K.K. Ling said that the applied use was for an occasional car park related to 'Religious Institution' use rather than a 'Public Vehicle Park' use. The Board could not approve a use that was not the subject of the application.

69. After some further discussion, the Chairman concluded that Members generally agreed that the application should be approved on a temporary basis. Members then discussed on the length of the approval period. In response to the Chairman's question, Mr Jeff Y.T. Lam clarified that the Permit for the playground would be renewed annually and could be terminated upon notification. Normally, the Permit would not be granted for a period longer than the period of planning approval. Mr K.K. Ling suggested that the approval period might be worded in such a way that the approval would expire upon the land was required by the Government for open space development. Mr Jeff Y.T. Lam considered that it would be more appropriate to expand the scope to say that the Permit would be terminated if the land was required for development. A Member suggested a temporary approval period of 3 or 5 years in order that the Board could monitor the situation. After further discussion, the Chairman suggested and Members agreed that an approval period of 3 years should be granted. Members also noted that the mechanisms for such Permit and the statutory town planning regime were different.

70. Regarding the applicant's proposal of allowing the car park use for other

occasions apart from Sundays and public holidays, a Member suggested that the car park use should be related to church services and the playground should not be used as a car park on Sundays if there were no church services. As for other church events not falling on Sundays, e.g. weddings or funeral services, the school should have priority over the use of the playground. Members generally agreed that the approval should be restricted to occasional car park use by the church on Sundays and public holidays as it would be adequate to cover most of the church services including Easter and Christmas.

71. After deliberation, the Board decided to approve the application on review on a temporary basis for a period of 3 years until 24.10.2017 on the terms of the application as submitted to the Board. Members then went through the approval conditions as suggested in paragraph 8.2 of the Papers and considered that they were appropriate. The approval conditions were :

- “(a) the ancillary car parking of the Christ Church shall only be allowed on Sundays and Public Holidays;
- (b) only private cars are allowed to be parked on the site;
- (c) the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.4.2015; and
- (d) if the above planning condition (c) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.”

72. The Board also agreed to advise the applicant on the following :

- “(a) as advised by the Transport Department, to arrange traffic attendant to manage the traffic operation when the site is for car park use;
- (b) to approach the Lands Department direct to obtain the necessary approval; and

- (c) to note the comments of the Secretary for Education that student activities should not be affected.”

[Mr Clarence W.C. Leung left the meeting temporarily at this point.]

Agenda Item 5

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-TT/327

Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years in “Village Type Development” Zone, Lots 4891 RP (Part), 4892 (Part), 4893 (Part) and 4894 in D.D.116 and adjoining Government Land, Tai Tong Road, Tai Tong, Yuen Long (TPB Paper No. 9759)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

73. The following representatives from the Planning Department (PlanD) and the applicant were invited to the meeting at this point :

- | | |
|----------------|---|
| Mr W.S. Lau | - District Planning Officer/Tuen
Mun and Yuen Long West
(DPO/TM&YLW), PlanD |
| Mr Lam Sun Tak | - Applicant |

74. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/TM&YLW to brief Members on the review application.

[Ms Janice W.M. Lai arrived, and Ms Christina M. Lee and Mr H.F. Leung returned to join the meeting at this point.]

75. With the aid of a Powerpoint presentation, Mr W.S. Lau, DPO/TM&YLW, presented the application and covered the following main points as detailed in the Paper :

Background

- (a) On 19.2.2014, the applicant, Mr. Lam Sun Tak, sought planning permission for temporary shop and services (real estate agency) for a period of 3 years at the application site (the Site) under s.16 of the Town Planning Ordinance (the Ordinance). On 25.4.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
 - (i) the applicant failed to demonstrate that the development would not cause adverse traffic, landscape and drainage impacts on the surrounding area; and
 - (ii) previous planning permissions granted to the applicant under Applications No. A/YL-TT/289 and 302 were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism;

The Site and its Surrounding Area

- (b) the Site had an area of about 520m² accommodating a single-storey structure of 27.75m² and 14 open-air parking spaces. The Site fell within an area zoned “Village Type Development” (“V”) on the eastern side of Tai Tong Road;

- (c) the surrounding areas were predominately residential in nature with a few car parks, open storage/storage yards and warehouses, a kindergarten, real estate agency, cultivated/fallow agricultural land and vacant/unused land;
- (d) to the immediate north of the Site was an open storage of vehicles, which was the subject of a planning approval (Application No. A/YL-TT/301) for temporary shop and services (real estate agency) use granted to the same applicant;
- (e) to the west of the Site across Tai Tong Road in the adjoining “V” zone was a real estate agency operating under Application No. A/YL-TT/310;
- (f) except for the warehouse to the southwest of the Site which was an “existing use” tolerated under the Ordinance, the other open storages/storage, warehouses and car parks in the vicinity of the Site were mostly suspected unauthorized developments subject to enforcement action taken by the Planning Authority;

Previous/Similar Applications

- (g) two previous applications for Temporary Shop and Services (Real Estate Agency) use were granted to the same applicant of the current application at the Site;
- (h) Application No. A/YL-TT/289 was approved with conditions for a period of 3 years by RNTPC on 19.8.2011. The planning approval was revoked on 19.2.2012 due to non-compliance with the approval conditions on the submission of run-in/out, landscaping and tree preservation, drainage and fire services installations (FSIs) proposals;
- (i) Application No. A/YL-TT/302 was approved with conditions for a

period of 3 years by RNTPC on 20.4.2012. In view that the previous Application No. A/YL-TT/289 was revoked due to non-compliance with approval conditions, shorter compliance periods were proposed to monitor the progress on compliance with approval. Although the applicant had complied with the approval condition requiring the submission and implementation of FSIs within the specified time limit, the approval was subsequently revoked on 20.10.2013 due to non-compliance with other approval conditions on the submission and implementation of parking arrangement, run-in/out, landscaping and tree preservation and drainage proposals;

- (j) there was one similar application (i.e. Application No. A/YL-TT/301) for temporary shop and services (Real Estate Agency) at the adjoining site to the north of the Site, also submitted by the same applicant. A/YL-TT/301 was approved with conditions by RNTPC for a period of 3 years on 20.4.2012. However, the approval was subsequently revoked on 20.7.2014 due to non-compliance with approval conditions on the submission and implementation of parking arrangement proposal, and the implementation of run-in/out and landscaping and tree preservation proposals;

Planning Intention

- (k) the planning intention of the “V” zone was to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone was primarily intended for development of Small Houses by indigenous villagers. It was also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development were always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial,

community and recreational uses might be permitted on application to the Board;

Applicant's Justifications

- (l) on 9.5.2014, the applicant applied for a review of the RNTPC's decision to reject the application and submitted further information on 28.7.2014, 14.8.2014 and 22.9.2014 to support the review application:
 - (i) the Site was the subject of two previously approved applications. The first application (No. A/YL-TT/289) was revoked due to non-compliance with approval conditions as the applicant was unaware of the procedures with extending the time limit for compliance. The applicant had difficulties in reaching relevant departments. The second application (No. A/YL-TT/302) was revoked due to confusion on the submission procedures for compliance with relevant conditions, the delay in receiving relevant information from utility providers, as well as the communication problems and confusion on the requirements of relevant departments in discharging concerned approval conditions on the drainage and landscaping aspects;
 - (ii) most of the signatures in the adverse public comment received on the application were fraudulent/forged. The objection ground that there were already many real estate agencies in the vicinity of the Site was unreasonable;
 - (iii) the applicant was facing hardship in operating the real estate agency business and sought the Board's sympathetic consideration of the application;

Departmental Comments

- (m) the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) advised that the private lots within the Site were Old Schedule Agricultural Lots held under Block Government Lease under which no structures were allowed to be erected without prior approval from his office. No approval had been given for the specified structures for office and toilet uses within the Site. No permission had been given for the occupation of Government land within the Site;

- (n) the Commissioner for Transport (C for T) had no comment on the revised run-in/out proposal. Adequate road marking should be provided to delineate the car parking spaces so that vehicle parking within the Site could be under better control. However, the revised parking arrangement was not acceptable since the width of the driveway between the container office and the adjacent parking spaces was 3m only, which was not sufficient for the manoeuvring of vehicles into and out of these parking spaces. The applicant was requested to provide a driveway within the Site of a minimum of 5.5m in width. The applicant should also ensure that no vehicle queuing and no reverse manoeuvring on public road was allowed;

- (o) the Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD had reservation on the application and commented that :
 - (i) the Site had been formed, hard paved and all vegetation cover was removed in 2011. Noticeable disturbance to the existing landscape character and resources had been caused before the application was submitted;

 - (ii) approval of the application at the Site would set an undesirable precedent to attract more commercial uses into the “V” zone that would further change or disturb the

landscape quality of the area. Despite several approvals of extension of time for compliance with planning conditions of the previously approved application, tree preservation and landscape proposals was only submitted once and was rejected. The applicant's commitment to fulfil the requirements of planning conditions was doubted;

(p) the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) had no objection in principle to the application from drainage viewpoint provided that there was no adverse drainage impact the adjacent areas. He was not able to offer comment on the submitted revised drainage proposal because the legends shown on the proposal were not clear;

(q) other government departments consulted had no further comment on the application;

Public Comments

(r) during the first three weeks of the statutory public inspection period, which ended on 13.6.2014, one public comment was received from a representative of the nearby residents raising objection to the review application mainly on the grounds of pedestrian safety; visual and environmental/sewerage impacts generated by the development; and occupation of government land. The commenter also pointed out that there were illegal structures within the Site and that the Site was actually used for storage of vehicles for sale and vehicle repairing;

(s) on 8.8.2014, the application was published for public inspection in view of the further information submitted by the applicant. Three public comments were received. The commenters raised objection to the application on similar grounds as mentioned above as well as on the worsening of public security;

PlanD's Views

(t) PlanD did not support the review application based on the planning consideration and assessments in paragraph 7 of the Paper, which were summarised below :

(i) the Site was the subject of two planning approvals (Applications No. A/YL-TT/289 and 302) previously granted to the same applicant for the same use. Both planning permission were subsequently revoked on 19.2.2012 and 20.10.2013 respectively due to non-compliance with approval conditions;

[Mr H.F. Leung left the meeting temporarily at this point.]

(ii) for the approved A/YL-TT/302, extension of time limit had been granted to the applicant five times (up to 18 months). However, only the approval condition on the submission and implementation of FSIs proposal had been satisfactorily complied with. The run-in/out proposal was accepted by the Chief Highway Engineer/New Territories West, Highway Department (CHE/NTW, HyD) but the proposal was not implemented within the specified time limit. The applicant had not made any submission for compliance with the approval condition on parking arrangement proposal. The applicant had only submitted the landscape and tree preservation proposals as well as drainage proposal once in March and April 2013 respectively, but these proposals were not accepted by the relevant departments and no further revised submission was made by the applicant since then;

(iii) the landscape proposal submitted by the applicant was in fact

similar to that submitted in respect of Application No. A/YL-TT/301 covering the adjoining site. CTP/UD&L, PlanD's comments on the landscape and tree preservation proposal submitted for A/YL-TT/301 had been clearly spelt out in PlanD's reply to the applicant on 8.3.2013 and yet the applicant had not made any submission to respond to the concerns which led to the revocation of that application;

- (iv) the drainage proposal submitted under the last approval Application No. A/YL-TT/302 was not accepted by the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD). The applicant claimed that the Site shared the same drainage facilities implemented for the adjoining site (Application No. A/YL-TT/301) which had already been accepted by relevant department. It should be noted that at the time of the submission of the drainage proposal for A/YL-TT/301 on 10.12.2013, Application No. A/YL-TT/302 was already revoked;

- (v) in the current application, the applicant had submitted run-in/out, parking arrangement, landscape and tree preservation, FSIs and drainage proposals to support the application. Whilst CHE/NTW of HyD and the Director of Fire Services (D of FS) considered that the submitted run-in/out and FSIs proposals were acceptable, the other proposals on parking, landscape and drainage aspects were not yet accepted by relevant government departments. C for T maintained his previous comment that the revised parking arrangement proposal was not acceptable as there was insufficient space for private cars to reverse/move out of the parking spaces. CTP/UD&L, PlanD also had reservation on the application from landscape perspective as the original vegetation cover had been removed and no further revised

tree preservation and landscape proposals was submitted to address her previous comments. CE/MN of DSD reserved his comments on the submitted revised drainage proposal as the proposal was unclear. In view of the above, the applicant failed to demonstrate that the development would not cause adverse traffic, drainage and landscape impacts on the surrounding areas; and

[Mr H.F. Leung returned to join the meeting at this point.]

- (vi) having considered the applicant's repeated failures to comply with the approval conditions of the two previous planning approvals and the concerns of relevant government departments had not been adequately addressed, further approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses. In light of the above, the current application did not warrant sympathetic consideration.

76. The Chairman then invited the applicant to elaborate on the review application. Mr Lam Sun Tak made the main points as follows:

- (a) he had taken action to comply with most of the approval conditions mentioned by DPO/TM&YLW. As a layman, he had no idea about how the approval conditions could be complied with and he had difficulties in contacting the subject officers of the relevant government departments. He noted PlanD's requirement that prior approval from the utility companies regarding the diversion of utility pipelines should be obtained. In particular, PCCW did not reply to him within a reasonable time period, causing delays for him in complying with the approval conditions;

- (b) staff in PlanD had been very helpful in guiding him in various submission to comply with the approval conditions. In his attempt to comply with the drainage condition, he had to liaise with adjoining landowners in formulating the drainage plan for the Site. The drainage plan submitted was extracted from document of the government's Minor Works Improvement Projects. The drainage proposal also covered the adjoining site to the north. The plan he submitted was a coloured plan and DSD's view that the plan was not clear should be due to photocopying. He had contacted DSD many times and his plan covering A/YL-TT/301 and A/YL-TT/302 was finally approved. Also, the Transport Department (TD) had approved the ingress/egress arrangement and the Fire Services Department (FSD) had approved his FSI proposal;
- (c) his real estate agency was mainly to provide job opportunities for the low-income group. The real estate agency business would also provide the much needed service for the younger generation and the minority group trying to seek accommodation in the New Territories. Some local people had tried to exert pressure on him to use the Site for vehicle repair/parking and his application was unfairly objected to. He urged that his application be approved so that opportunities could be given to help the younger generation;
- (d) Regarding the landscaping proposal, several amendments had been made in accordance with the advice given by PlanD. While he had provided planters and completed the tree planting as required, there was no confirmation on whether the landscape approval condition had been complied with;
- (e) all the approval conditions regarding drainage, fire services, ingress/egress had been complied with and the outstanding landscape proposal could be resolved. He was willing to further liaise and comply with PlanD's requirements regarding the compliance with the

landscape condition. He urged favourable consideration could be given to his application.

77. As the presentation of the applicant was completed, the Chairman invited questions from Members.

78. A Member noted that 2 previous planning approvals at the Site were revoked for non-compliance with the approval conditions. He asked DPO/TM&YWL to elaborate on the attempts made by the applicant in complying with the approval conditions. In response, Mr. W.S. Lau said that guidance on the compliance with approval conditions and a list of contact persons were attached to the approval letter. As pointed out by the applicant, prompt assistance had been given to him by staff in PlanD. While the applicant might have difficulties in complying with the approval conditions in the first approval, he should have ample time in complying with the conditions in the second approval. For the second approval, the applicant had extended the time for complying with the approval conditions 5 times with a total period of 18 months. During which, only the approval condition on FSI and the submission part of the run-in/out proposal were complied with. Members might note that the FSI was simply the installation of two fire extinguishers.

79. Mr Lam Sun Tak admitted that he failed to comply with the approval conditions for the first approval. However, for the second approval, a number of approval conditions had been completed.

80. As Members had no further question, the Chairman informed the applicant that the hearing procedure for the review application had been completed. The Board would deliberate on the review application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant and DPO/TM&YWL for attending the meeting. They left the meeting at this point.

Deliberation

81. The Chairman said and Members agreed that not knowing the procedures to

follow should not be used as an excuse for the non-compliance, and the failure to do so repeatedly was not acceptable.

82. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection of the review application as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were :

- “(a) the applicant fails to demonstrate that the development would not cause adverse traffic, landscape and drainage impacts on the surrounding area; and
- (b) previous planning permissions granted to the applicant under Applications No. A/YL-TT/289 and 302 were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.”

Sha Tin, Tai Po and North District

Agenda Item 6

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-KLH/469

Proposed House (New Territories Exempted House (NTEH) – Small House) in “Agriculture” zone, Lots 535 S.A ss.3 and 539 S.D in D.D. 9, Yuen Leng Village, Tai Po, N.T.

(TPB Paper No. 9760)

Agenda Item 7

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-KLH/470

Proposed House (New Territories Exempted House (NTEH) – Small House) in “Agriculture” zone, Lots 539 S.C and 541 S.B ss.8 in D.D. 9, Yuen Leng Village, Tai Po, N.T.

(TPB Paper No. 9761)

[The meeting was conducted in Cantonese]

83. The following representatives from the Planning Department (PlanD), the applicants and their 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 Lee Sai On) Applicants
Mr Lee Sai Lok)
Mr Lee Wai Leung) Applicants' Representatives
Ms Liu Yuk Lin)

[Ms Bonnie J.Y Chan and Ms. Christina M. Lee left the meeting at this point and Mr F.C. Chan and Miss Winnie M.W. Wong left the meeting temporarily at this point.]

84. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN to brief Members on the review applications.

85. Mr C.K. Soh said that the two application sites were located adjacent to each other. Since the proposed NTEH were similar in nature and the applicants were represented by the same representatives, the two applications could be considered together. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, presented the applications and covered the following main points as detailed in the Paper :

Background

- (a) On 7.5.2014, Mr Lee Sai On, the applicant of A/NE-KLH/469, and Mr Lee Sai Lok, the applicant of A/NE-KLH/470, sought planning permission to build a house (New Territories Exempted House (NTEH) – Small House) each on the application sites (the Sites) under s.16 of the Town Planning Ordinance (the Ordinance). On 27.6.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the two applications and the reason was that the proposed developments did not comply with the Interim Criteria for consideration of application for NTEH/Small House in New Territories in that the proposed Small Houses located within the water gathering ground (WGG) would not be able to be connected to the existing or planned sewerage system in the area and there was no fixed programme for implementation of such system at this juncture;

The Sites and its Surrounding Area

- (b) the Sites fell within an area zoned “Agriculture” (“AGR”) on the Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11 and were located adjacent to each other. They were located within the village environ (‘VE’) of Yuen Leng, Kau Lung Hang San Wai and Lo Wai and the upper indirect WGG;
- (c) the Sites were situated close to other small houses and were accessible by local track. The surrounding areas were predominantly rural in character with mainly village houses and vacant land;

Previous/Similar Applications

- (d) the site of Application No. A/NE-KLH/469 was the subject of a previous application (No. A/NE-KLH/344) and the site of Application

No. A/NE-KLH/470 was the subject of a previous application (No. A/NE-KLH/343), both for Small House development by the same applicants. Both A/NE-KLH/343 and A/NE-KLH/344 were approved with conditions by the Board on review on 14.7.2006 mainly on the grounds that the Site was entirely within the 'VE' of Yuen Leng; there was a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai Villages; and the proposed Small House was able to be connected to the planned sewerage system in the area. Subsequently on 26.8.2006, the applicant lodged appeals (Town Planning Appeals No. 18 and 19 of 2006) against the advisory clause (a) of the approvals that the actual construction of the proposed Small House should only begin after the completion of the public sewerage network. The appeals were dismissed by the Town Planning Appeal Board (TPAB) on 2.8.2007;

- (e) there were 12 similar applications (No. A/NE-KLH/259, 283, 284, 310, 311, 343, 370, 372, 397, 406, 407 and 442) for Small House development within the "AGR" zone in the vicinity of the Sites at the time of the consideration of the s.16 application;
- (f) three applications (No. A/NE-KLH/259, 283 and 284) were approved with conditions by the RNTPC before 23.8.2002 as the Interim Criteria prevailing at that time could be met. The Interim Criteria was revised on 23.8.2002 by the incorporation of criterion which required that the site should be able to be connected to the existing or planned sewerage system in the area;
- (g) the other nine applications (No. A/NE-KLH/310, 311, 343, 370, 372, 397, 406, 407 and 442) were approved with conditions by the RNTPC/Board on review in 2003 to 2012 mainly on the consideration that more than 50% of the Small House footprints were located within

the ‘VE’ of the villages concerned; there was a general shortage of land to meet the demand for Small House development in the “V” zone of the villages concerned; and the proposed developments would be able to be connected to the planned sewerage system;

Planning Intention

- (h) the planning intention of the “AGR” zone was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes;

Applicants’ Justifications

- (i) the sewerage connection proposal showed that the proposed Small House could be connected to an alternative public sewerage project in Kau Lung Hang San Wai and Yuen Leng which was already under construction; and
- (j) the applicants had obtained owners’ consent for the sewerage connection proposal via adjacent private land;

Departmental Comments

- (k) the Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD) had no objection to the application and commented that the applicants proposed to connect the house to the public sewerage system in Kau Lung Hang (instead of Yuen Leng), which was being constructed and tentatively scheduled for completion in 2017. The applicants were reminded to liaise with the resident site staff of the consultant of Contract No. DC/2012/04 – Sewerage in Kau Lung Hang San Wai, Kau Lung Hang Lo Wai and Tai Hang for

more details on the alignment of the proposed public sewers and to agree on the works programme before commencement of construction;

- (l) the Director of Environmental Protection (DEP) commented that the applicants' proposal for sewer connection to the Kau Lung Hang San Wai/Lo Wai sewerage scheme was feasible. As the applicants had obtained agreement from relevant lot owners for sewer connection through respective private lots and undertook to carry out future maintenance of the sewer connection, he had no objection to the applications;
- (m) the Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) had no objection to the application. He noted that CE/CM, DSD and DEP had no objection to the applications in view of the revised sewerage connection proposal and advised that the construction of the proposed Small Houses should not commence before the completion of the planned public sewerage system;
- (n) other government departments consulted maintained their views of having no objection to/no adverse comments on the application;

Public Comments

- (o) on 8.8.2014, the review application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received;

PlanD's Views

- (p) given that there was a change in the planning circumstances since the consideration of the two applications by the RNTPC, the PlanD had no objection to the review applications based on the planning

consideration and assessments in paragraph 7 of the Paper, which were summarised below :

- (i) the applications sites were located within the upper indirect WGG. For the review application, the applicants proposed to connect the proposed Small House to the public sewerage system in Kau Lung Hang San Wai, Kau Lung Hang Lo Wai and Tai Hang which was tentatively scheduled for completion in 2017 and had obtained owners' consent for such connection via adjacent private land. As the applicants had demonstrated the feasibility of alternative sewerage connection to public sewer, the DEP and CE/Dev(2), WSD had no objection to the application provided that the proposed Small House development would not commence before the completion of the public sewerage system and the Small House would be connected to the future public sewer;

- (ii) the footprint of the proposed Small House fell entirely within the 'VE' and there was a general shortage of land in meeting the demand for Small House development in the "V" zone of Yuen Leng, Kau Lung Hang Lo Wai and San Wai and Tai Wo Village. The applicant had addressed the concerns of the Board and demonstrated the proposed Small House could be connected to the public sewer which was under construction and DEP, CE/Dev(2), WSD and CE/MN, DSD had no in-principle objection to/adverse comment on the review application. Thus, the application generally complied with the Interim Criteria and sympathetic consideration could be given to the two review applications.

86. The Chairman then invited the applicant to elaborate on the review applications. Mr Lee Sai On, who spoke for both applications, said that the revised sewerage connection proposal was feasible. If the Board approved the two applications,

the relevant District Lands Office should be informed of the Board's decision in order that the Small House applications could proceed as it had taken several years to process their applications.

87. As the presentation of the applicants was completed, the Chairman invited questions from Members.

88. As there was no question from Members, the Chairman informed the applicants and their representatives that the hearing procedure for the review application had been completed. The Board would deliberate on the review application in their absence and inform the applicants of the Board's decision in due course. The Chairman thanked the applicants, their representatives and DPO/STN for attending the meeting. They left the meeting at this point.

Deliberation

89. Noting that the applicants had addressed the rejection reasons to the satisfaction of the concerned government departments, the Chairman suggested and Members agreed that the applications could be approved upon review.

90. After deliberation, the Board decided to approve the application on review. Members then went through the approval conditions of the review application as stated in paragraph 8.2 of the Paper and considered that they were appropriate. The approval conditions were :

- “(a) submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board;
- (b) provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Board;
- (c) connection of the foul water drainage system of the proposed New Territories Exempted House (NTEH)/Small House to the public

sewerage system to the satisfaction of the Director of Water Supplies or of the Board; and

- (d) provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Board.”

91. The Board also agreed to advise the applicant on the following :

- “(a) the applicant is required to register, before execution of Small House grant document, a relevant Deed of Grant of Easement annexed with a plan for construction, operation and maintenance of sewage pipes and connection points on the lots concerned in the Land Registry against all affected lots;
- (b) to note the comments of the Director of Environmental Protection that construction of house shall not be commenced before the completion of the planned sewerage system; the proposed Small House shall be connected to the future public sewer at the applicant’s own cost when available; and adequate land shall be reserved for the future sewer connection work;
- (c) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD) that the proposed NTEH/Small House should be located as far away from the water course as possible since it is less than 30m from the nearest water course; the whole of the foul effluent from the proposed NTEH/Small House shall be conveyed through cast iron pipes or other approved materials with sealed joints and hatchboxes; for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection; and the applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be

responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and water mains in the vicinity of the Site cannot provide the standard pedestal hydrant;

- (d) to note the comments of the Commissioner for Transport that the land status, management and maintenance responsibilities should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;

- (e) to note the comments of the Chief Engineer/Consultants Management and the Chief Engineer/Mainland North of Drainage Services Department that the public sewerage system in Kau Lung Hang is being constructed and tentatively scheduled for completion in 2017 and the applicant is reminded to liaise with the resident site staff of the consultant of Contract No. DC/2012/04 – Sewerage in Kau Lung Hang San Wai, Kau Lung Hang Lo Wai and Tai Hang for more details on the alignment of the proposed public sewers and to agree on the works programme before commencement of construction. There is no public drain in the vicinity of the Site. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if boundary wall/fence is to be erected. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant/owner is required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of

damage or nuisance caused by failure of the systems. For works to be undertaken outside the lot boundary, prior consent and agreement from Lands Department and/or other private lot owners should also be sought. Details comments on the drainage proposal is at Annex F of the Paper;

- (f) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that as the Site is near Fanling Highway, the applicant should provide mitigation measures at his own cost against any nuisance (e.g. noise, dust, etc) from the public roads;
- (g) to note the comments of the Director of Fire Services that the applicant should observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department; and
- (h) to note that the permission is only given to the development under the application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.

Agenda Item 8

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LT/505

Proposed 2 Houses (New Territories Exempted Houses (NTEH) – Small Houses) in “Agriculture” and “Village Type Development” zones, Lots 1296 S.B ss.3 and 1296 S.B ss.4 in D.D. 8, Lam Tsuen San Tsuen, Tai Po, N.T.

(TPB Paper No. 9760)

[The meeting was conducted in Cantonese]

92. The following representative from the Planning Department (PlanD), the applicants and their 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 Cheung Kai Yip) Applicants
Mr Cheung Kai Tai)
Mr Hui Kwan Yee) Applicants' Representatives
Ms Lo Shui Chun)

93. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN to brief Members on the review applications.

94. With the aid of a Powerpoint presentation, Mr C.K. Soh, DPO/STN, presented the applications and covered the following main points as detailed in the Paper :

Background

- (a) On 30.4.2014, the applicants sought planning permission for development of two proposed NTEHs (Small Houses) at the subject site (the Site). The Site fell partly within the "Village Type Development" ("V") zone and partly within the Agriculture" ("AGR") zone on the approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11. On 27.6.2014, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:

- (i) the proposed development was not in line with the planning intention of the “AGR” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention;
- (ii) the proposed development did not comply with the Interim Criteria for consideration of application for New Territories Exempted House/Small House in the New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Lam Tsuen San Tsuen;
- (iii) there was land available within the “V” zone of Lam Tsuen San Tsuen for Small House development. The applicant failed to demonstrate in the submission why suitable site within areas zoned “V” could not be made available for the proposed development; and
- (iv) the proposed development was located within the Water Gathering Ground (WGG). The applicant failed to demonstrate that the proposed development could be connected to the planned sewerage system and would not create adverse impact on the water quality in the area;

The Site and its Surrounding Area

- (b) the Site was located at the north-western fringe of Lam Tsuen San Tsuen and was covered with shrubs, weeds and some fruit trees. More than 50% of the footprint of the proposed Small Houses fell

within the “V” zone and the village environ (‘VE’). The Site fell within the upper indirect WGG and was accessible by a footpath;

- (c) the surrounding areas were predominantly rural in character with a mix of village houses, agricultural land and vegetated fields. The village cluster of Lam Tsuen San Tsuen was about 20-30m to the east. The Lam Tsuen River was about 40m to the west;

Previous/Similar Applications

- (d) there was no previous application on the same site and no similar application in the same “AGR” zone in the vicinity of the site;

Planning Intention

- (e) the planning intention of the “V” zone was to reflect the existing recognised villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone was primarily intended for development of Small Houses by indigenous villagers. It was also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services;
- (f) the planning intention of the “AGR” zone was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes;

Applicants’ Justifications

- (g) the applicants had not provided any justifications to support the

review application;

Departmental Comments

- (h) the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) had no objection to the application as more than 50% of the footprint of the two Small Houses fell within the 'VE' of Lam Tsuen San Tsuen, and the applicants were indigenous villagers of Tong Sheung Tsuen as confirmed by their Indigenous Inhabitant Representative (IIR). He also advised that the latest outstanding Small House applications and the number of 10-year Small House demand for Lam Tsuen San Tsuen were 28 and 65 respectively;
- (i) the Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) maintained his previous objection to the application as the Site was located within upper indirect WGG and was more than 30m from the nearest stream. There was no information in the application to demonstrate that access rights for construction and maintenance of private sewers were granted. In addition, it was noted that the level of the Site was significantly lower than the planned sewers in the vicinity and the feasibility of future sewerage connection to the planned public sewer had not been established;
- (j) other government departments consulted maintained their views of having no objection to/no adverse comments on the application;

Public Comments

- (k) On 15.8.2014, the review application was published for public inspection. During the 3-week statutory public inspection period, no public comment was received;

PlanD's Views

- (l) the Site was covered with shrubs, weeds and some fruit trees and located in a predominantly rural setting. The proposed houses were not incompatible with the surrounding areas. The Site fell within the upper WGG. The CE/Dev(2), WSD maintained his objection to the application as there was no information in the review application to demonstrate that the proposed development could be connected to the planned sewerage system and would not cause adverse impact on the water quality in the area;

- (m) although more than 50% of the footprint of the proposed Small Houses fell within "V" zone and 'VE', the proposal did not meet the Interim Criteria in that there was no general shortage of land within the "V" zone to meet the Small House demand. The DLO/TP, LandsD advised that the latest total number of outstanding Small House applications for Lam Tsuen San Tsuen had changed from 33 to 28, while the 10-year Small House demand forecast remained unchanged at 65. Based on PlanD's estimate, there was sufficient land available (about 2.88ha, equivalent to about 115 Small House sites) within the "V" zone of the concerned villages to meet the total demand of Small House development (93 Small House sites); and

- (n) there had been no major change in planning circumstances for the Site and its surrounding areas since the rejection of the application. The planning assessment at the s.16 stage was still valid. There was no strong reason to warrant a departure from the RNTPC's previous decision.

95. The Chairman then invited the applicants to elaborate on the review application. Mr Hui Kwan Yee, the representative of the applicants made the following points :

- (a) there would not be any adverse impact on the land zoned “AGR” due to the application as the agricultural activities in the area had diminished. There were similar Small House developments nearby and the adjacent development had more than 30 houses. Most of the residents in the surrounding developments were not indigenous villagers;
- (b) although there was land within the “V” zone for Small House development, the land was held by other landowners who were not willing to sell their land. The applicants could not find suitable land to build their Small Houses in the village. The Site was the only land close to the village that the applicants were able to acquire. He understood from the IIR that the estimated 65 Small House demand, which had not been updated, was provided by the ex-IIR. The demand should be about 200, which was significantly higher than that could be accommodated within the “V” zone; and
- (c) the footprint of the Small Houses in the application was mainly within the “V” zone, leaving the land within the “AGR” zone for landscaping, and cultivation purpose. A number of government departments, including DLO/TP, Director of Environmental Protection (DEP), Director of Drainage Services (DSD) and Fire Services Department (FSD), had no objection to the application. Regarding drainage issue, DSD indicated that there would be some upgrading of the sewerage system. However, the design had not been finalized. The applicants were willing to comply with any approval condition and to connect to the main sewerage system.

96. On the background on the Site, Mr Cheung Kai Yip, one of the applicants, said that his family had 40 members spanning over 4 generations but they did not have any Small House in the village. His family had been trying to find land to build Small Houses but in vain as most land was held up by developers. The Site was the only piece of land they could acquire, and that land was previously owned by his father which had a

sentimental value to his family. As the family members were getting old and had illness of different kinds, he hoped that the Board could give sympathetic consideration to his application as they could not wait any longer. If his application was rejected, they could not find any other suitable site in the village as land was simply not available for sale and their hope of returning to the village would vanish.

97. Mr Cheung Kai Tai, another applicant, said that he was a cancer patient and he hoped that the Board could give sympathetic consideration and approve his application so that his family could at least own a Small House in the village before he died.

98. Ms Lo Shui Chun, a family member of the applicant, said that she was glad that the applicants were able to acquire the Site for Small House development. However, she was greatly disappointed by RNTPC's decision to reject the application. She hoped that the Board could approve the application.

99. As the presentation of the applicants and their representatives was completed, the Chairman invited questions from Members.

100. A Member asked whether the Small House would be approved by LandsD if it could not be connected to the public sewerage system. Mr. C.K. Soh explained that as the Site fell within the WGG, WSD would likely raise objection to the Small House application when it was processed by LandsD. Hence, the chance of getting an approval for Small House grant would be minimal.

101. In response to the Chairman's further query on the issue of sewerage connection, Mr Soh explained that the Site fell within a WGG and the alignment of the proposed sewer was at a distance from the Site. As the Site was located on a relatively low topography, in the absence of any concrete proposal to demonstrate the feasibility of sewerage connection through some private lots owned by others, WSD objected to the application. Mr Cheung Kai Yip commented that the proposed sewerage system was only a recent proposal that only benefitted the houses within its catchment. It was unfair to him that his land was not served by this sewerage system and his application was rejected because of this reason.

102. As Members had no further question, the Chairman informed the applicants and their representatives that the hearing procedure for the review application had been completed. The Board would deliberate on the review application in their absence and inform the applicants of the Board's decision in due course. The Chairman thanked the applicants, their representatives and DPO/STN for attending the meeting. They left the meeting at this point.

Deliberation

103. The Chairman said that the application was rejected by the RNTPC as the Site fell within a WGG and the proposed Small House could not be connected to the public sewerage system, which had no implementation programme. Although about 50% of the Site fell within the "V" zone, there was land within the "V" zone for Small House development. As such, the proposed development was not in line with the Interim Criteria for consideration of application for NTEH/Small House in the New Territories. Members agreed that the application should be rejected.

104. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection of the review application as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were :

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” (“AGR”) zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for consideration of application for New Territories Exempted

House/Small House in the New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Lam Tsuen San Tsuen;

- (c) there is land available within the “V” zone of Lam Tsuen San Tsuen for Small House development. The applicants fail to demonstrate in the submission why suitable site within areas zoned “V” could not be made available for the proposed development; and
- (d) the proposed development is located within the Water Gathering Ground. The applicants fail to demonstrate that the proposed development could be connected to the planned sewerage system and would not create adverse impact on the water quality in the area.”

Procedural Matters

Agenda Item 9

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Further Representations on Proposed Amendment to the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1 Arising from Consideration of Representations and Comments on the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1
(TPB Paper No. 9763)

Agenda Item 10

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Further Representations on Proposed Amendment to the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/1 Arising from Consideration of Representations and Comments on the Draft So Lo Pun Outline

Zoning Plan No. S/NE-SLP/1
(TPB Paper No. 9768)

Agenda Item 11

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Further Representations on Proposed Amendment to the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1 Arising from Consideration of Representations and Comments on the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1
(TPB Paper No. 9769)

[The meeting was conducted in Cantonese.]

105. The Secretary reported that the information note and hearing arrangement for consideration of the three OZPs could be considered together. On 27.9.2013, the Draft Pak Lap Outline Zoning Plan (OZP) No. S/SK-PL/1, the Draft So Lo Pun OZP No. S/NE-SLP/1 and the Draft Hoi Ha OZP No. S/NE-HH/1 were exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance).

106. During the statutory plan inspection period, a total of 10,665 representations and 3,669 comments for the Draft Pak Lap OZP, 10,748 representations and 3,673 comments for the Draft So Lo Pun OZP and 10,824 representations and 3,671 comments were received for the Draft Hoi Ha OZP. In view that a significant number of representations and comments were common to the three OZPs, the Board considered the representations and comments on the three OZPs collectively from April to June 2014.

107. The Board, on 4.6.2014, decided to partially uphold some representations by rezoning a section of the existing stream in Pak Lap and the area to its east from “Village Type Development” (“V”) to “Agriculture” (“AGR”) on the Draft Pak Lap OZP, rezoning two pieces of land at the north-eastern end and south-western end of the “V” zone to “Green Belt” (“GB”) on the Draft So Lo Pun OZP, and rezoning the western part of the “V” zone and the adjoining “GB” zone to “GB(1)” on the Draft Hoi Ha OZP.

108. The proposed amendments to the three OZPs were considered and agreed by the Board on 4.7.2014, and exhibited for public inspection under section 6C(2) of the Ordinance on 25.7.2014. Upon the expiry of the 3-week exhibition period, a total of 12 further representations to the Draft Pak Lap OZP, 26 further representations to the Draft So Lo Pun OZP and 54 further representations to the Draft Hoi Ha OZP submitted by individual members of the public were received.

109. Amongst the further representations received, F12 on the Draft Pak Lap OZP, F22 to F26 on the Draft So Lo Pun OZP and F21 to F32, F36, F37, F46 and F52 to F54 on the Draft Hoi Ha OZP were submitted by the original representers or commenters. Pursuant to section 6D(1) of the Ordinance, any person, other than that who had made any representation or comment and after consideration of which the proposed amendments had been made, might make further representation to the Board in respect of the proposed amendments. The above-mentioned further representations were thus considered as invalid and should be treated as not having been made.

110. As the representations were previously considered by the full Board, it was considered more appropriate for the full Board to hear the further representations without resorting to the appointment of a Representation Hearing Committee. The hearing could be accommodated in the Board's regular meeting and a separate hearing session would not be necessary. Consideration of the further representations by the full Board was tentatively scheduled for November 2014. All the original representers and commenters and the valid further representers to the three draft OZPs would be invited to the hearing.

111. As the consideration of further representations were related to the proposed amendment items only, a total of 10 minutes presentation time was recommended to be allotted to each further representer and the original representers and commenter for presenting his/her views in the hearing irrespective of the number of OZPs he/she had made submission on. The Vice-chairman said that there might be logistic issue if the majority of further representers and original representers would attend the meeting. He suggested that the Secretariat should first sort out the number of further representers that would present their views to the Board before making a decision on the meeting arrangement. The Chairman suggested and Members agreed that the Chairman and

Vice-chairman would make a decision on the hearing arrangement on behalf of the Board after the Secretariat had confirmed the number of attendees who would make a presentation.

112. After deliberation, the Board agreed that the further representations made by the original representers and commenters should be considered invalid. The remaining further representations would be heard by the Board. Members also agreed that the Chairman and Vice-chairmen would make a decision on the hearing arrangement on behalf of the Board.

Agenda Item 12

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Tai Po Outline Zoning Plan No. S/TP/25
(TPB Paper No. 9765)

[The meeting was conducted in Cantonese.]

113. The following Members had declared interests in this item:

- | | |
|----------------------|--|
| Chairman | - his relative lived in the Lo Fai Road area, and had submitted a representation |
| Dr W.K. Yau | - being a member of the Tai Po District Council and owning properties and land, and a shop in Tai Po |
| Mr Stanley Y.F. Wong | - owning a flat and car parking spaces at Deerhill Bay with his spouse |
| Mr H.W. Cheung | - owning a flat at Heung Sze Wui Street in Tai Po |

Mr Frankie W.C. Yeung - owning a flat in On Chee Road, Tai Po

114. As the consideration of representations and comments on the Draft Tai Po OZP involved sites rezoned for public housing development by the Housing Department, which was the executive arm of the Hong Kong Housing Authority (HKHA), the following Members had declared interests in this item:

Mr Stanley Y.F. Wong - being a member of the HKHA and Chairman of the Subsidised Housing Committee of HKHA

Professor P.P. Ho - being a member of the Building Committee of HKHA

Ms Julia M.K. Lau - being a member of the Commercial Properties Committee and Tender Committee of HKHA

Ms Janice W.M. Lai]
Mr Dominic K.K. Lam] having business dealings with HKHA
Mr Patrick H.T. Lau]

Mr H.F. Leung - being a member of the Tender Committee of HKHA and having business dealings with HKHA

Mr K.K. Ling - being a member of the Strategic Planning
(as Director of Planning) Committee and Building Committee of HKHA

Mr Jeff Y.T. Lam - being a representative of the Director of

(as Deputy Director of Lands)	Lands who was a member of HKHA
Mr Eric K.S. Hui (as Assistant Director of Home Affairs Department)	- being an alternative member of the Director of Home Affairs who was a member of the Strategic Planning Committee and Subsidised Housing Committee of HKHA
Miss Winnie M.W. Wong (as Principal Assistant Secretary (Transport) of Transport and Housing Bureau)	- being the representative of the Secretary for Transport and Housing who was a member of the Strategic Planning Committee of HKHA

115. As the item was procedural in nature and no discussion was required, the Board agreed that the above Members should be allowed to stay in the meeting. Members also noted that Professor P.P. Ho, Dr W.K. Yau, Mr Dominic K.K. Lam, Mr Frankie W.C. Yeung had tendered apologies for being unable to attend the meeting and Mr H.W. Cheung, Ms Janice W.M. Lai, Mr Patrick H.T. Lau, Mr Eric K.S. Hui and Miss Winnie M.W. Wong had left the meeting.

116. The Secretary reported that on 11 April 2014, the Draft Tai Po Outline Zoning Plan No. S/TP/25 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 6,322 valid representations were received. On 5 August 2014, the representations were published for 3 weeks for public comments, and 440 comments were received.

117. A total of 6,267 (R6 to R1273 and R1324 to R6322) mainly objected to the rezoning of “Green Belt” (“GB”) sites for residential developments, in particular, the sites at Fung Yuen (R1329 to R1628) and Lo Fai Road (R1629 to R6321). The representers comprised residents and owners’ committees of residential developments in the vicinity,

Legislative Councillors, District Council members, green/concern groups and members of the public.

118. Another 50 representations (R1274 to R1323) mainly submitted by individuals objected to the rezoning of the site at Chung Nga Road West from “GB” and “Government, Institution or Community” (“G/IC”) for public housing development and considered that there were already too many public housing developments in the area and the site was more suitable for private housing. The remaining five representations (R1 to R5) gave some views on the zoning amendments.

119. The comments on the representations supported the representations against the rezoning of “GB” sites for residential developments (C1 – C80) and objected to rezoning of a site at Lo Fai Road (C81 – C439).

120. The Secretary also said that Comment No. 440 objected to the imposition of all the Block Government Lease lands for village type development. Since it was not related to the representations or subject of amendments, the comment should be considered invalid and it should be treated as not having been made under section 6(3)(b) of the Ordinance. This was agreed by the Board.

121. Since the proposed amendments to the OZP had attracted wide local interests, it was recommended that the representations and comments should be considered by the full Board. The hearing could take place in the Board’s regular meeting and a separate hearing session would not be necessary. As some of the representations and comments were similar in nature and interrelated, it was suggested to arrange the hearing of the representations and comments in two groups as follows:

Group 1

- (a) collective hearing for 50 representations (R1274 to R1323) objecting against the rezoning of a site at Chung Nga Road West from “GB” and “G/IC” to “Residential (Group A)9” for public housing development; and

Group 2

- (b) collective hearing for 6,272 representations (R1 to R1273 and R1324 to R6322) and 439 related comments (C1 - C439) mainly in relation to the rezoning of sites zoned “GB” and “G/IC” for residential developments.

122. Because of the large number of representations and comments received, a total of 10 minutes presentation time was recommended to be allotted to each representer and commenter for presenting his/her representations and/or comments in the hearing session. A special meeting might need to be held for the consideration of representations and comments, which was tentatively scheduled for November 2014.

123. The Board agreed that :

- (a) Comment No. 440, which was not related to the representations or subject of amendments, was considered as invalid; and
- (b) the consideration of the representations and comments should be considered by the Board itself and a total of 10 minutes presentation time is recommended to be allotted to each representer and commenter for presenting his/her representations and/or comments in the hearing session.

Agenda Item 13

[Open Meeting]

Submission of the Draft Lamma Island Outline Zoning Plan No. S/I-LI/10A to the Chief Executive in Council for Approval under section 8 of the Town Planning Ordinance (TPB Paper No. 9764)

[The meeting was conducted in Cantonese.]

124. On 11.4.2014, the Draft Lamma Island Outline Zoning Plan (OZP) No. S/I-LI/10 was exhibited for public inspection under section 5 of the Town Planning

Ordinance (the Ordinance). During the two-month exhibition period, a total of 2 representations were received. On 27.6.2014, the Town Planning Board (the Board) published the representations for public comment and in the first three weeks of the publication period, no comment was received.

125. R1 was subsequently withdrawn on 24.7.2014. On 19.9.2014, the Board decided that R2 was invalid and should be treated as not having been made as it was not related to any amendment item(s) of the draft OZP. The Board also decided that a meeting for consideration of the representation was not required.

126. Since there was no valid representation that required hearing by the Board, the Draft Lamma Island OZP was now ready for submission to the Chief Executive in Council (CE in C) for approval.

127. After deliberation, the Board agreed :

- (a) that the Draft Lamma Island OZP Plan No. S/I-LI/10 and its Notes were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statement (ES) for the Draft Lamma Island OZP Plan No. S/I-LI/10 as an expression of the planning intention and objectives of the Board for the Draft Lamma Island OZP and issued under the name of the Board; and
- (c) that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 14

[Open Meeting]

Submission of the Draft Ma On Shan Outline Zoning Plan No. S/MOS/19A to the Chief Executive in Council for Approval under section 8 of the Town Planning Ordinance

(TPB Paper No. 9767)

[The meeting was conducted in Cantonese.]

128. The following Members had declared interests in this item:

Mr Dominic K.K. Lam - his spouse owned two flats in Ma On Shan

Mr Francis T.K. Ip - living in Double Cave, Ma On Shan

129. As the item was procedural in nature and no discussion was required, the Board agreed that the above Members should be allowed to stay in the meeting. Members noted that Mr Dominic K.K. Lam had tendered apologies for being unable to attend the meeting.

130. The Secretary reported that on 7.3.2014, the Draft Ma On Shan Outline Zoning Plan (OZP) No. S/MOS/19 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 264 representations were received. On 6.6.2014, the Town Planning Board (the Board) published the representations for public comment and in the first three weeks of the publication period, a total of 38 comments were received. After giving consideration to all the representations and comments on 5.9.2014, the Board decided not to propose any amendment to the draft OZP to meet the representations.

131. Since the representation consideration process had been completed, the Draft Ma On Shan OZP was now ready for submission to the Chief Executive in Council (CE in C) for approval.

132. After deliberation, the Board agreed :

- (a) that the Draft Ma On Shan OZP Plan No. S/MOS/19 and its Notes were suitable for submission under section 8 of the Ordinance to the CE in C for approval;

- (b) to endorse the updated Explanatory Statement (ES) for the Draft Ma On Shan **OZP** Plan No. S/MOS/19 as an expression of the planning intention and objectives of the Board for the Draft Ma On Shan OZP and issued under the name of the Board; and
- (c) that the **updated** ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 15

[Open Meeting]

Submission of the Draft Kam Tin North Outline Zoning Plan No. S/YL-KTN/8A to the Chief Executive in Council for Approval under section 8 of the Town Planning Ordinance (TPB Paper No. 9739)

[The meeting was conducted in Cantonese.]

133. The following Members had declared interests in this item:

- | | | |
|---------------------|---|---|
| Mr Dominic K.K. Lam |] | having business dealings with MTRCL, |
| Ms Janice W.M. Lai |] | Henderson and Sun Hung Kai |
| Mr Ivan C.S. Fu |] | having business dealings with MTRCL, |
| Mr Patrick H.T. Lau |] | Henderson, Sun Hung Kai and Cheung Kong |
| Ms Julia M.K. Lau | - | having business dealings with Sun Hung Kai |
| Professor P.P. Ho | - | having business dealings with Cheung Kong |
| Dr Eugene K.K. Chan | - | his spouse being an employee of a subsidiary company in the Henderson Land Group and being convenor of the Hong Kong Metropolitan Sports Event Association that had solicited |

- sponsorship from Henderson and Sun Hung Kai
- Mr Francis T.K. Ip - having a close relative who was on the Board of Cheung Kong
- Miss Winnie W.M. Wong (as Principal Assistant Secretary for Transport and Housing) - being an alternate Member of the Board of the MTRCL
- Professor S.C. Wong] being an employee of the University of Hong Kong (HKU) that had received donation from a family member of the Chairman of Henderson
- Dr Wilton W.T. Fok]
- Mr H.F. Leung]
- Dr W.K. Yau] each being director of non-government organisation that had received a private donation from a family member of the Chairman of Henderson
- Mr Clarence W.C. Leung]
- Mr Roger K.H. Luk] being a Member of Council (Mr Luk) or employee (Professor Ho and Professor Chau) of the Chinese University of Hong Kong (CUHK) that had received donation from a family member of the Chairman of Henderson
- Professor P.P. Ho]
- Professor K.C. Chau]
- Ms Christina M. Lee - being a Director of the Hong Kong Metropolitan Sports Event Association that had solicited sponsorship from Henderson and Sun Hung Kai

134. As the item was procedural in nature and no discussion was required, the Board agreed that the above Members should be allowed to stay in the meeting. Members also noted that Professor S.C. Wong, Professor P.P. Ho, Dr W.K. Yau, Professor

K.C. Chau and Mr Dominic K.K. Lam had tendered apologies for being unable to attend the meeting and Mr Clarence W.C. Leung, Dr Wilton W.T. Fok, Ms Christina M. Lee, Dr Eugene K.K. Chan and Miss Winnie W.M. Wong had left the meeting.

135. The Secretary reported that on 9.5.2014, the Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/8 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 15 representations were received. On 25.7.2014, the representations were published for public comments. During the first three weeks of the publication period, a total of 35 valid comments were received. After giving consideration to the representations and comments on 10.10.2014, the Board decided not to propose any amendment to the draft OZP to meet the representations.

136. Since the representation consideration process had been completed, the Draft Kam Tin North OZP was now ready for submission to the Chief Executive in Council (CE in C) for approval.

137. After deliberation, the Board agreed :

- (a) that the Draft Kam Tin North OZP No. S/YL-KTN/8 and its Notes were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statement (ES) for the Draft Kam Tin North OZP No. S/YL-KTN/8 as an expression of the planning intention and objectives of the Board for the Draft Kam Tin North OZP and issued under the name of the Board; and
- (c) that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 16

[Open Meeting]

Submission of the Draft Pak Shek Kok (East) Outline Zoning Plan No. S/PSK/12A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 9740)

[The meeting was conducted in Cantonese.]

138. The following Members had declared interests in this item:

- | | | |
|----------------------|---|---|
| Mr Stanley Y.F. Wong | - | co-owning a flat and 2 parking spaces at Deerhill Bay near Pak Shek Kok with his spouse in Tai Po and being the Chairman of the Incorporated Owners of Deerhill Bay which had submitted Representation No. R178 |
| Dr W.K. Yau | - | owning a property and land in Cheung Shue Tan Tsuen near Pak Shek Kok |
| Mr Roger K.H. Luk | - | being the Board of Directors of the Chinese University of Hong Kong (CUHK) which was considered by some representers as having synergy effect with the Hong Kong Science Park (HKSP) in Pak Shek Kok on the development of the Research and Development (R&D) sector in Hong Kong |
| Professor K.C. Chau |] | being professors in CUHK, some |
| Professor P.P. Ho |] | representers considered CUHK would have synergy effect with HKSP on the development of the R&D sector in Hong Kong |

- Mr Dominic K.K. Lam - his company had undertaken the HKSP Phase 2 project some 10 years ago
- Mr Peter K.T. Yuen - the HKSP project was under his purview when he worked in the civil service some 14 years ago

139. As the item was procedural in nature and no discussion was required, the Board agreed that the above Members should be allowed to stay in the meeting. Members also noted that Professor P.P. Ho, Dr W.K. Yau, Professor K.C. Chau and Mr Dominic K.K. Lam had tendered apologies for being unable to attend the meeting.

140. The Secretary reported that on 7.3.2014, the Draft Pak Shek Kok (East) Outline Zoning Plan (OZP) No. S/PSK/12 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 458 representations were received. On 6.6.2014, the representations were published for public comments. During the first three weeks of the publication period, a total of 96 comments were received. After giving consideration to the representations and comments on 5.9.2014 and 10.10.2014, the Board decided not to propose any amendment to the draft OZP to meet the representations.

141. Since the representation consideration process had been completed, the Draft Kam Tin North OZP was now ready for submission to the Chief Executive in Council (CE in C) for approval.

142. After deliberation, the Board agreed :

- (a) that the Draft Pak Shek Kok (East) OZP No. S/PSK/12 and its Notes were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statement (ES) for the Draft Pak

Shek Kok (East) OZP No. S/PSK/12 as an expression of the planning intention and objectives of the Board for the Draft Pak Shek Kok (East) OZP and issued under the name of the Board; and

- (c) that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 17

[Open Meeting]

Application to the Chief Executive under section 8(1) of the Town Planning Ordinance for Extension of the Time Limit for Submission of the Draft To Kwa Peng and Pak Tam Au Outline Zoning Plan No. S/NE-TKP/1 to the Chief Executive in Council for Approval (TPB Paper No. 9772)

[The meeting was conducted in Cantonese.]

143. The Secretary briefly introduced the Paper. On 3.1.2014, the Draft To Kwa Peng and Pak Tam Au Outline Zoning Plan (OZP) No.S/NE-TKP/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the plan exhibition period, a total of 7,689 representations and 980 comments were received.

144. After considering the representations and comments on 6.10.2014, the Board decided to partially uphold some representations by rezoning part of a stream and the southern adjoining area in Pak Tam Au from “Village Type Development” (“V”) to “Agriculture” (“AGR”). The proposed amendments would be gazetted under section 6C(2) of the Ordinance for three weeks and some more time would be required for the consideration of further representation received, if any.

145. According to the statutory time limit, the draft OZP should be submitted to the CE in C for approval on or before 3.12.2014. It was unlikely that the plan-making process could be completed within the 9-month statutory time limit for submission of the

draft OZP to the Chief Executive in Council (CE in C) for approval (i.e. before 3.12.2014).

146. There was a need to apply to the CE for an extension of the statutory time limit for six months to allow sufficient time to complete the plan-making process of the draft OZP prior to its submission to the CE in C for approval.

147. After deliberation, the Board agreed that the CE's agreement should be sought under section 8(2) of the Ordinance to extend the time limit for submission of the Draft To Kwa Peng and Pak Tam Au OZP No. S/NE-TKP/1 to the CE in C for a period of six months from 3.12.2014 to 3.6.2015.

Agenda Item 18

[Closed Meeting]

148. This item was recorded under confidential cover.

Agenda Item 19

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

149. The Secretary reported that a Court judgment regarding Hong Dao Tong, a private columbarium which served an originating summons on the Secretary for Justice (who acted on behalf of the Director of Lands and the Town Planning Board (the Board)).

150. Hong Dao Tong was a private columbarium included in Part B of the Information on Private Columbaria published by the Administration, in particular, the columbarium use in Hong Dao Tong was not in compliance with both the statutory planning requirements and lease conditions.

151. The Hong Dao Tong site was zoned “Other Specified Uses” annotated “Business” (“OU(Business)”) on the draft Kwai Chung Outline Zoning Plan (OZP). Under ‘Schedule I: for open air development or for building other than industrial or industrial-office building’ of the Notes for the “OU(Business)” zone, which was applicable to Hong Dao Tong, ‘Residential Institution’ (‘RI’) was a Column 1 use that was always permitted while ‘Columbarium’ was not a permitted use (i.e. neither a Column 1 nor a Column 2 use).

152. According to the Definition of Terms (DoTs), ‘RI’ and ‘Columbarium’ were two different user terms. ‘RI’ was defined as “any place or premises where in accordance with the practice of religious principles services are held or prayers said by congregations loyal to a belief”. ‘Columbarium’ was defined as “any place or vault with niches or urns that contain the ashes of cremated bodies”.

153. The Plaintiff sought the Court’s declarations on the following:

- (a) a declaration that General Condition No. 15 of Sale in G.N. No. 364 of 1934 as amended by G.N. No. 50 of 1940 incorporated by New Grant No. 3306 governing the Lot did not prohibit storage on the Lot of ashes resulting from the cremation of human remains;
- (b) a declaration that Hong Dao Tong was a “RI’ as defined in the DoTs used in Statutory Plans and was a use always permitted under the Kwai Chung OZP governing the site;
- (c) a declaration that the Plaintiff was entitled, without the consent or approval of the Lands Department or the Board or any other government or statutory bodies, to store ashes resulting from the cremation of human remains on the lot currently occupied by Hong Dao Tong; and
- (d) costs of this application was to the Plaintiff.

154. The case was heard by the Court of First Instance on 23 and 24.9.2014. On

21.10.2014, the Court of First Instance dismissed the Summons by the Plaintiff and allowed the counter-claims.

- (a) Lease issue – the Court ruled in favour of the Lands Department that relevant lease condition governing Hong Dao Tong did prohibit storage on the Lot of ashes resulting from the cremation of human remains.
- (b) OZP issue – the Court ruled in favour of the Board and made the following main points:
 - there was a fairly overwhelming case that ‘RI’ and ‘Columbarium’ were treated differently in the OZP. They were under different definitions under the DoTs, the ‘RI’ was to facilitate religious services and ‘Columbarium’ was for keeping of ashes;
 - common sense dictated that the different uses in question involved (i.e. ‘RI’ and ‘Columbarium’) different considerations for planning purposes;
 - in accordance with the ‘Master Schedule of Notes Used in Statutory Plans’ (MSN), it was clear that columbarium was intended to be a much more restrictive use and were only permitted under three zonings, namely “Government, institution or community” zone (under Column 2); “Other Specified Uses” and annotated for cemetery, columbarium, crematorium and/or funeral parlour use (under Column 1); and “Green Belt” for ‘Columbarium (within a religious institution or extension of existing columbarium only)’ (under Column 2). In contrast, ‘RI’ was a common use that was permitted in the majority of land use zonings in the MSN;
 - the different treatment for ‘Columbarium’ and ‘RI’ went a long way to show that the planning intention was that they were different uses and ‘Columbarium’ was not subsumed under ‘RI’;

- the plaintiff's proposition that since the columbarium was an integral part of Hong Dao Tong, it fell within 'RI' use could not be right. It was inconceivable that under the OZP, a columbarium containing 26,000 or even 10,000 niches could be regarded as a part of a 'RI'. If this argument were correct, Hong Kong could have columbaria springing up all over as long as they could be said to be part of a 'RI'.
- (c) Counter-claims – the defendant's counter claims were allowed by the Court in that Hong Dao Tong was in breach of General Condition 15 governing the Lot; Hong Dao Tong should forthwith remove from the Lot all human remains (including any cremated ashes); and Hong Dao Tong forthwith ceased the sale or advertisement of the sale of niches for the storage of cremated ashes on the Lot.

155. Members were invited to note the Court's judgment. The plaintiff had 28 days from the date of the judgment (i.e. 18.11.2014) to apply for an appeal. A copy of the judgement had been sent to Members for their information.

156. The Board noted the Court's judgment and agreed that the Secretary should represent the Board in all matters relating to the subject Court case in the usual manner.

157. There being no other business, the meeting closed at 1:40 p.m.