

**Minutes of 1117th Meeting of the
Town Planning Board held on 22.7.2016**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Michael W.L. Wong

Chairman

Professor S.C. Wong

Vice-Chairman

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Mr Sunny L.K. Ho

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Mr H.F. Leung

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr David Y.T. Lui

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Deputy Director of Environmental Protection (1)
Mr C.W. Tse

Principal Assistant Secretary (Transport) 3
Transport and Housing Bureau
Mr Andy S.H. Lam

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

Assistant Director (Regional 3)
Lands Department
Mr Edwin W.K. Chan (p.m.)

Chief Engineer (Works)
Home Affairs Department
Mr Martin W.C. Kwan

Director of Planning
Mr K.K. Ling

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

Secretary

Absent with Apologies

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Ms Janice W.M. Lai

Ms Christina M. Lee

Mr T.Y. Ip

Mr Stephen L.H. Liu

Professor T.S. Liu

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planners/Town Planning Board

Ms Lily Y.M. Yam (Agenda Items 1 to 3)

Mr Louis K.H. Kau (Agenda Items 4 to 8)

Senior Town Planners/Town Planning Board

Mr K.K. Lee (Agenda Items 1 to 3)

Miss Anissa W.S. Lai (Agenda Items 4 to 8)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1116th Meeting held on 8.7.2016

[The item was conducted in Cantonese.]

1. The minutes of the 1116th meeting held on 8.7.2016 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

(i) **Reference Back of Approved Plan**

2. The Secretary reported that on 5.7.2016, the Chief Executive in Council referred the approved Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/19 to the Town Planning Board (the Board) for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance. The reference back of the OZP was notified in the Gazette on 15.7.2016.

(ii) **Three New Town Planning Appeals Received**

- (a) Town Planning Appeal No. 4 of 2016
Proposed House (New Territories Exempted House (NTEH) – Small House) in “Green Belt” and “Village Type Development” Zones,
Lot 454 S.A in D.D. 28, Tai Mei Tuk Village, Ting Kok Road, Tai Po
(Application No. A/NE-TK/570)
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- (b) Town Planning Appeal No. 5 of 2016
Proposed House (NTEH – Small House)
in “Green Belt” and “Village Type Development” Zones,
Lot 454 S.B in D.D. 28, Tai Mei Tuk Village, Ting Kok Road, Tai Po
(Application No. A/NE-TK/571)
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3. The Secretary reported that two Notices of Appeal were received by the Appeal Board Panel (Town Planning) on 28.6.2016 against the decisions of the Town Planning Board (the Board) on 15.4.2016 to reject on review two applications (No. A/NE-TK/570 and A/NE-TK/571) for Small House development at two sites at Tai Mei Tuk Village, Tai Po, which fell within the “Green Belt” (“GB”) and “Village Type Development” (“V”) zones on the approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19 currently in force.

4. Each of the two applications was rejected by the Board for reasons that:

- (i) the proposed development was not in line with the planning intention of the “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within the zone;
- (ii) land was still available within the “V” zone of Lung Mei, Tai Mei Tuk and Wong Chuk Tsuen which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services; and
- (iii) the proposed development would have adverse impacts on the existing landscape of the area including the Banyan tree near the site.

5. The hearing dates of the appeals were yet to be fixed. Members noted the Appeals and agreed that the Secretary would act on behalf of the Board in dealing with the appeals in the usual manner.

- (c) Town Planning Appeal No. 6 of 2016
Proposed House (NTEH – Small House) in “Agriculture” Zone,
Lots 1257 RP and 1258 in D.D. 19, Lam Tsuen San Tsuen, Tai Po
(Application No. A/NE-LT/552)
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6. The Secretary reported that Professor T.S. Liu had declared interest in the item as he knew Mr Chan Cho Leung, one of the applicant’s representatives who was also a Tai Po District Council Member (TPDC) (for Lam Tsuen Valley) and a Tai Po Rural Committee Member, when he cooperated with TPDC to publish a book a few years ago.

7. Members noted that Professor T.S. Liu had tendered apologies for being unable to attend the meeting.

8. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 29.6.2016 against the decisions of the Town Planning Board (the Board) on 15.4.2016 to reject on review an application (No. A/NE-LT/552) for Small House development at a site at Lam Tsuen San Tsuen, Tai Po, which fell within the “Agriculture” (“AGR”) zone on the approved Lam Tsuen OZP No. S/NE-LT/11 currently in force.

9. The application was rejected by the Board for reasons that:

- (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 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 submission for a departure from the planning intention;
- (ii) the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/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; and

- (iii) land was still available within the “V” zone of Lam Tsuen San Tsuen which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

10. The hearing date of the appeal was yet to be fixed. Members noted the Appeal and agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

(iii) Appeal Statistics

11. The Secretary reported that as at 22.7.2016, a total of 13 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	:	35
Dismissed	:	144
Abandoned/Withdrawn/Invalid	:	193
Yet to be Heard	:	13
Decision Outstanding	:	2
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Total	:	387

Sha Tin, Tai Po and North District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Representations and Comments

in respect of Draft Pak Sha O Outline Zoning Plan No. S/NE-PSO/1

(TPB Paper No. 10141)

[The item was conducted in Cantonese and English.]

12. The Chairman said that the representations and comments would be considered collectively in two groups.

Declaration of Interests

13. The Secretary reported that the following Members had declared interests in the item:

Dr C.H. Hau - being the Vice-chairman of The Conservancy Association which had submitted one representation (R519) and one comment (C1)

Mr Stephen H.B. Yau - being the Chairman of the Social Work Advisory Committee of the Department of Social Work in Hong Kong Baptist University (HKBU), and Kaitak, Centre for Research and Development, Academy of Visual Arts of HKBU had submitted one representation (R526)

Ms Christina M. Lee - being a part-time student of HKBU

14. Members noted that Dr C.H. Hau, whose interest was direct, had not yet arrived to join the meeting, and Ms Christina M. Lee had tendered apologies for being unable to attend the meeting. Noting that Mr Stephen H.B. Yau had no involvement in the subject

matter, Members considered that his interest was remote and agreed that he should be allowed to stay at the meeting.

15. Mr Philip S.L. Kan also declared an interest in the item at this point as he was a former member of the Court of HKBU. As the interest of Mr Philip S.L. Kan was remote, Members agreed that he should be allowed to stay at the meeting.

Group A

(R1 to R349 and R351 to R515)

Presentation and Question Sessions

16. The following government representatives, representer and representers' representative were invited to the meeting at this point:

Government Representatives

Mr C.K. Soh - District Planning Officer/Shia Tin, Tai Po and North (DPO/STN), Planning Department (PlanD)

Mr David Y.M. Ng - Senior Town Planner/Country Park Enclaves 1 (STP/CPE1), PlanD

Mr K.S. Cheung - Senior Nature Conservation Officer (South) (SNCO(S)), Agriculture, Fisheries and Conservation Department (AFCD)

Representer and Representers' Representative

R1 – Sai Kung North Rural Committee

R4 – 翁盛亨堂司理 翁煌發

Mr Li Yiu Ban - Representers' representative

R2 – Ho Chi Chiu, Indigenous Inhabitant Representative of Pak Sha O

Mr Ho Chi Chiu - Representer

17. The Chairman said that reasonable notice had been given to the representers and commenters inviting them to attend the hearing, but other than those who were present or had indicated that they would attend the hearing, the rest had either indicated not to attend or made no reply. As reasonable notice had been given to the representers and commenters, Members agreed to proceed with the hearing of the representations in their absence.

18. The Chairman extended a welcome and briefly explained the procedures of the hearing as follows:

- (a) DPO/STN would first brief Members on the background;
- (b) the representers or their representatives would then be invited to make oral submissions in turn according to their representation number. To ensure the efficient operation of the meeting, each representer or his representative would be allotted 10 minutes for making oral submission. There was a timer device to alert the representers or their representatives 2 minutes before the allotted time was to expire, and when the allotted time limit was up;
- (c) a question and answer (Q&A) session would be held after all attending representers of Group A or their representatives had completed their oral submissions. Members could direct their questions to government representatives, representers or their representatives;
- (d) after the Q&A session, the representers of Group A or their representatives would be invited to leave the meeting. The government representatives would stay in the meeting for the Group B hearing; and
- (e) after completion of the Group A and Group B hearings, the Town Planning Board (the Board) would deliberate on the representations in the absence of the representers/commenters, their representatives and the

government representatives, and would inform the representers/commenters of the Board's decision in due course.

19. The Chairman then invited DPO/STN to brief Members on the representations and comments.

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

- (a) on 4.12.2015, the draft Pak Sha O Outline Zoning Plan (OZP) No. S/NE-PSO/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 1,806 valid representations and 36 valid comments were received;

The Representations

- (b) on 3.6.2016, the Board decided to consider the representations in two groups:

- (i) Group A – 514 representations (R1 to R349 and R351 to R515) submitted by the Sai Kung North Rural Committee (SKNRC), the Indigenous Inhabitant Representative (IIR) of Pak Sha O, villagers and individuals mainly objected to the inadequate “Village Type Development” (“V”) zone and the inclusion of building lots within the “V(1)” zone and “Green Belt” (“GB”) zone, requiring application for planning permission to redevelop the building lots; and
- (ii) Group B – 1,292 representations (R516 to R1807) were submitted by green/concern groups and individuals. Whilst R516 supported the general intention of the OZP, the remaining representations mainly objected to the “V” and “Agriculture” (“AGR”) zones on grounds of environmental and heritage conservation;

Planning Scheme Area

- (c) the planning scheme area (the Area) of about 33.27 ha was encircled by the Sai Kung West Country Park with Hoi Ha Wan Marine Park to its further north. The two recognised villages of Pak Sha O and Pak Sha O Ha Yeung had no vehicular access and were accessed by a walking trail off Hoi Ha Road. The area fell entirely within the upper indirect Water Gathering Ground (WGG). The 1.4km Hoi Ha Ecologically Important Stream (EIS) and its tributaries ran across the Area which comprised mainly regenerated woodlands from abandoned agricultural land, dense native woodlands and freshwater marshes. The central part of the Area mainly comprised low-lying agricultural land, freshwater marshes, shrublands and woodlands that extended towards the fringe of the Area;

Existing Land Uses

- (d) to the south of Pak Sha O Ha Yeung was the freshwater marsh where an orchid species, *Liparis ferruginea* was found. There were many stream tributaries of good water quality and the presence of the rare Three-lines Bagrid Fish and rare/very rare butterfly species. For the natural habitats of the Area, protected plant species, e.g. *Aquilaria sinensis*, *Pavetta hongkongensis* and *Cibotium barometz* were found. Pak Sha O and Pak Sha O Ha Yeung were the two recognised villages in the Area well preserved with a number of interesting historical and cultural heritage buildings including the Grade 1 Historic Buildings of Ho Residence and Ho Ancestral Hall, the Grade 3 Historic Building of Immaculate Heart of Mary Chapel in Pak Sha O, and the proposed Grade 1 Historic Buildings of King Siu Sai Kui and Hau Fuk Mun at Pak Sha O Ha Yeung;

Background

- (e) on 7.12.2012, the first draft Pak Sha O Development Permission Area (DPA) Plan was exhibited for public inspection, and 41 representations and 20 comments were received. On 26.7.2013, in order to protect the

character and heritage of the village setting, the Board decided to partially uphold 36 representations by amending the Notes of the DPA Plan to incorporate more planning control within the “V” zone. The proposed amendments to the draft DPA Plan were published on 9.8.2013 and four further representations were received. On 4.10.2013, the Board decided not to uphold the further representations and the draft DPA Plan was subsequently approved by the Chief Executive in Council;

[Mr Dominic K.K. Lam arrived to join the meeting at this point.]

(f) on 24.7.2015, the Board gave preliminary consideration to the draft Pak Sha O OZP and agreed that the draft OZP was suitable for consultation. The major difference between the draft OZP and the approved DPA Plan were that the “V” zone was reduced to cover only the existing core village clusters and stricter planning control on village development was proposed. The “AGR”, “Conservation Area” (“CA”) and “GB” zones were also designated on the draft OZP. The IIR of Pak Sha O, the Tai Po District Council (TPDC), and the SKNRC expressed strong objection to the draft OZP mainly on the following grounds:

(i) the “V” zone was inadequate to meet the Small House demand;
and

(ii) the imposition of more planning control within the “V” zone would restrict Small House development.

They requested that the “V” zone be expanded;

(g) a consultation meeting was held on 14.10.2015 with SKNRC and IIR of Pak Sha O and they considered that:

(i) the “AGR” and “GB” zones were located away from the existing village cluster and EIS and there was a dense woodland in between that could act as buffer; and

- (ii) the area could be designated as “V” zone within which no planning permission would be required for Small House development;

- (h) on 13.11.2015, the Board gave further consideration to the draft OZP. Taking into account that the area to the north of the existing village cluster of Pak Sha O was separated from the village by dense woodland and comprised private land falling within the village ‘environs’ (‘VE’), the Board decided to designate the area as “V” zone with a buffer distance of 20m from the EIS. The Board also decided to set back the boundary at the south-western corner of the “V” zone of Pak Sha O Village by 10m and rezone it to “GB” to provide a 20m buffer to the existing village, and to designate the original “V” zone to “V(1)”. The Board noted that septic tank and soakaway (STS) systems were not acceptable for new village development in WGG to ensure the water quality;

Draft Pak Sha O OZP No. S/NE-PSO/1

- (i) on 4.12.2015, the draft Pak Sha O OZP No. S/NE-PSO/1 was exhibited for public inspection. The general planning intention was to conserve the high natural landscape and ecological significance of the Area, to preserve the existing vernacular Hakka village setting; and to consolidate village development at suitable locations to avoid undesirable disturbance to the natural environment. While there were more than 92% of the Area under conservation zones, i.e. “CA” and “GB”, only about 1.2 ha was designated for village development which was in line with the planning intention of the Area;

Grounds and Proposals of Representations

Group A

- (j) the major grounds of the representations and representers’ proposals in Group A, as summarised in paragraphs 2.3 of the Paper, were highlighted below:

Inadequate land within “V” zone in Pak Sha O

- (i) the proposed “V” zone could not satisfy the future demand for Small House development;

Opposition to designating building lots under “V(1)” and “GB” zones

- (ii) planning permission would be required for redevelopment of the existing houses, which would deprive land owners’ right to redevelop properties;

Lack of “V” zone in Pak Sha O Ha Yeung

- (iii) land within the ‘VE’ was designated as conservation zonings which disregarded the need for Small House development; and

Proposals

- (iv) to expand “V(1)” to about 9,640 m² by rezoning the adjacent land currently zoned as “GB”; to rezone some land at Pak Sha O Ha Yeung from “GB” to “V”; and to rezone building lots at Pak Sha O and Pak Sha O Ha Yeung from “V(1)” and “GB” to “V”;

Group B

- (k) the major grounds of the representations and representers’ proposals in Group B, as summarised in paragraphs 2.4 and 2.5 of the Paper, were highlighted below:
 - (i) R516 supported the general intention of the draft OZP but raised concerns mainly on the adverse environmental impacts of the “V” zone;
 - (ii) the remaining representations mainly objected to the “V” and “AGR” zones on environmental and heritage conservation grounds:

- the Small House demand forecast was unjustified;
- there were adverse environmental impacts from Small House development;
- there was insufficient protection to the historic Hakka Settlement as Small House development within the “V” zone would not be compatible with the existing vernacular Hakka village and would destroy the overall aesthetic of the village;
- the “V” zone was originally a natural wetland/freshwater marsh with rich ecological value, which was then turned into farmland. There were concerns on ‘destroy first, build later’ type development by destroying the natural habitat in the name of agricultural rehabilitation; and
- designation of areas not covered by any agricultural activities as “AGR” zone was not justified;

Proposals

- (iii) to confine/delete the “V” zone and to relocate the “V” zone to the south of Pak Sha O village with a width of 30m; and to designate environmentally sensitive areas from “GB” and “AGR” to “GB(1)”/“CA” ; and
- (iv) to amend the Notes of the OZP
 - the use of fertilizers should be controlled. Planning permission should also be required for irrigation ditches and wet agricultural farmland in order to maintain the drainage capacity, connectivity and hydrology of the EIS;

- to delete ‘House’ or ‘Small House’ use from Column 1 or Column 2 of the Notes of the “AGR” and/or “GB” zones to avoid giving false hope to the villagers;
 - to restrict the built form and new development within “V(1)” zone for better protection of the existing vernacular Hakka villages cluster; and
 - public works implemented or co-ordinated by government should be strictly controlled in river channels, river banks, land with dense vegetation, woodlands and “CA” zone in order to protect the environment, in particular the EIS and Hoi Ha Wan Marine Park;
- (v) designation of the Area as Country Park;

Other Views

- (l) they included:
- (i) review of Small House Policy, preparation of layout plan, designation of the village areas of Pak Sha O and Pak Sha O Ha Yeung as historical monuments, and resuming land for agricultural purpose;
 - (ii) rejecting the OZP until the completion of a full Environment Impact Assessment (EIA) on the potential impact of the proposed land use zonings on Pak Sha O River Valley and Hoi Ha Wan Marine Park; and
 - (iii) release of all relevant information and documents and the Small House demand forecast and the criteria for assessing an application;

- (m) all the 36 comments received (C1 to C36) were submitted by green/concern groups. The grounds and proposals of the comments were either the same or similar to those of the representations in Group B, including adverse environmental impacts of “V” zone; sufficient land had already been reserved in Pak Tam Au for Small House development; and the need to preserve high ecological and cultural heritage values of the Area;

Responses to Grounds and Proposals of Representations

- (n) the responses to grounds and proposals of the representations, as summarised in paragraph 6.14 to 6.47 of the Paper, were highlighted below:

Designation of “V” zone

- (i) while representers in Group A considered that the “V” zone was not sufficient to meet the Small House demand for the Area, those in Group B held the views that the “V” zone should be deleted on environmental and heritage conservation grounds. The responses to those views were:
- any change to the existing vernacular Hakka village setting with possible adverse impact on the heritage value of historic buildings should be avoided;
 - the core village cluster of the two villages had been designated as “V(1)”, which was subject to more stringent planning control so as to ensure that new houses would be in harmony with the existing historic buildings and would not affect the integrity and ambience of the existing village setting;

- in view of the significant shortfall of land for Small House development and in recognition of the need to conserve the ambience of the existing village with significant cultural heritage and landscape values, an area of about 0.7 ha to the north of Pak Sha O village had been designated as “V” zone for Small House development;
 - the “V” zone, predominantly occupied by active agricultural land and shrubby grassland, was separated from the existing village clusters by dense woodland and there was a 20m buffer distance at the south-western corner of the “V” zone away from the old village core; and
 - to protect the EIS from development, a 20m-wide buffer area in-between the “V” zone and the EIS was proposed;
- (ii) though the land available within the “V” and “V(1)” zones could not even cater for the 37 outstanding Small House demand in Pak Sha O, the adoption of incremental approach for designation of “V” zone would consolidate Small House development at suitable locations to avoid undesirable disturbance to the natural environment and the historic setting of the existing village clusters thus balancing the needs between conservation and development; and
- (iii) when preparing the OZP for Pak Tam Au, the surplus of land for Small House development within the “V” zone of Pak Tam Au could help to meet the Small House demand of other villages within the WGG including Pak Sha O and Pak Sha O Ha Yeung by means of cross-village application;

To expand “V(1)”, rezone building lots at Pak Sha O from “GB” to “V” and relocate the proposed “V” zone to the south of Pak Sha O Village

- (iv) the intention of the “V(1)” zone was to preserve the existing setting of the vernacular Hakka village and the graded historic buildings in the village. The surrounding areas, including the greenery to the south of the existing village cluster and the adjoining woodland served as a green buffer connecting the village cluster of Pak Sha O (“V(1)”) with the mature woodland (“CA”) and the Sai Kung West Country Park; and
- (v) there was provision for application for Small House development in the “GB” zone under the planning permission system. In general the building entitlements as specified in the relevant lease condition would be respected and each case would be considered by the Board based on its individual merits;

To designate “V” zone at Pak Sha O Ha Yeung

- (vi) the areas in Pak Sha O Ha Yeung proposed to be zoned “V” comprised abandoned farmland and isolated building lots overgrown with woodland on the hillside which was contiguous with the Sai Kung West Country Park. AFCD considered the “GB” zonings for those areas more appropriate; and
- (vii) the Civil Engineering and Development Department (CEDD) did not support the proposal as those areas were overlooked by steep natural terrains and might be affected by potential natural terrain landslide hazards;

Unjustified Small House demand forecast

- (viii) the Small House demand forecast was only one of the many references in considering the proposed “V” zone; and
- (ix) the District Lands Officer/Tai Po (DLO/TP) would verify the status of the Small House applicant at the stage of Small House grant

application. It would be against the law to obtain government approval by deception through false representation or fraud;

Adverse environmental impacts from Small House development

- (x) with the Area falling within the WGG, the use of STS systems for sewage treatment and disposal was considered unacceptable for new village developments. The Environmental Protection Department (EPD) and Water Supplies Department (WSD) did not normally support new development proposals within WGG unless effective means was demonstrated to ensure that the proposed development would not cause irreversible damage, unacceptable risks or negative impacts on water environment and water quality; and
- (xi) AFCD considered that the EIS and the “V” zone was separated by “GB”, which could serve as a buffer to future Small House development;

Insufficient protection to the historic Hakka settlement

- (xii) a “V” zone was proposed to the north of the existing cluster of Pak Sha O village to preserve the historic setting of the existing village;
- (xiii) the “V” and “V(1)” zones were separated by a woodland and a 20m buffer; and
- (xiv) a balance was struck between preservation of historic settlements and housing need of villagers;

Concern on ‘Destroy First, Build Later’

- (xv) agricultural activities were widely undertaken in the area in the 1960s and 1970s but diminished since the 1980s;

- (xvi) excavation works for agricultural rehabilitation to the north of the Pak Sha O was found in 2012 before publication of the draft Pak Sha O DPA Plan; and
- (xvii) there were no complaint record on adverse environmental impact from the agricultural activities in the area;

Designation of “AGR” zone not justified

- (xviii) AFCD advised that the “AGR” zone shared similar characteristics with the adjacent farmland and possessed potential for agricultural rehabilitation; and
- (xix) “AGR” zoning was considered appropriate to facilitate agricultural activities;

Designation of environmentally sensitive areas from “GB” to “GB(1)”/”CA”

- (xx) more than 90% of the land were under conservation zones, including “GB” and “CA” in which there was a general presumption against development;

To amend the Notes of the Plan

To impose more stringent control on agricultural use

- (xxi) planning permission would be required for any works relating to excavation of land, diversion of streams or filling of land/pond;
- (xxii) transferring agricultural use to Column 2 use would impose restrictions on agriculture and discourage agricultural development; and

- (xxiii) the Waterworks Ordinance provided enforcement power on the control of pollution within WGG. The use of pesticide within WGG was not allowed. The use of other chemicals including fertilizers required prior approval from WSD;

To delete 'House'/'Small House' use from the Notes of the "AGR" and/or "GB" zones

- (xxiv) each planning application would be considered on its individual merits taking into account the prevailing planning circumstances and relevant guidelines;

To restrict the built form of new development within "V(1)" zone

- (xxv) within the "V(1)" zone, proposed house and any demolition, or addition, alteration and/or modification to or redevelopment of an existing building would require planning permission;

- (xxvi) each case would be considered on its own merits and the Antiquities and Monuments Office (AMO) would be consulted; and

- (xxvii) the current planning control was considered sufficient to protect the setting of vernacular Hakka village;

To control public works implemented or co-ordinated by Government

- (xxviii) those works were generally necessary for local facilities for the benefits of the public and/or environmental improvement. It would not be in the public interest to impose requirement of planning approval which might cause unnecessary delay;

- (xxix) concerned departments were required to carefully consider the environmental implications of each work in accordance with the relevant legislations and guidelines; and
- (xxx) any development within “CA” zone, including public works, works involving any diversion of streams, filling of land/pond or excavation of land, would require planning permission;

Designation of the Area as Country Park

- (xxxii) designation of Country Park was under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (CPO) which was outside the purview of the Board. Moreover, preparation of the statutory plan would not preclude any future designation of Country Park;

Other Views

- (xxxiii) other views including designation of Pak Sha O and Pak Sha O Ha Yeung as historical monuments; conducting a full EIA of the proposed land use zonings on Pak Sha O River Valley and Hoi Ha Wan Marine Park; release of all relevant information and documents; and preparation of layout plan would be considered where appropriate. Other views and requests outside the purview of the Board would be relayed to relevant departments for consideration;

Responses to Grounds of Comments

- (o) all the 36 comments (C1 to C36) mainly raised objection to Group A’s proposal regarding designation for “V” zone and the responses to those views were similar to those to the representations in Group B;

PlanD's Views

- (p) the supportive view of R516 was noted; and
- (q) PlanD did not support the representations in both Group A and Group B and considered that no amendment should be made to the OZP to meet those representations.

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

R1 – Sai Kung North Rural Committee

R4 – 翁盛亨堂司理 翁煌發

22. Mr Li Yiu Ban made the following main points:

- (a) he was the Chairman of SKNRC;
- (b) he and other representatives of SKNRC visited Pak Sha O two months ago, and were warmly received by Mr Ho Chi Chiu, IIR of Pak Sha O. The Ho Residence, which was a Grade 1 historic building, was the family house of Mr Ho. Despite Pak Sha O was remote, the ancestors of the Ho family chose to spend a huge amount of money to build the spectacular Ho Residence in Pak Sha O as their family house many years ago. The house was currently occupied by Mr Ho's brother and a person who was very keen on conserving the house. The Ho family respected the will of their ancestors and had put great efforts to maintain their family house throughout the years. The villagers were no different from the green groups in recognising the historical value of the Ho Residence and Ho Ancestral Hall and the need to preserve the historic buildings;
- (c) as Pak Sha O was very remote and not served by road, the villagers were forced to move out to the urban areas for work and school. With fewer and fewer people living in the village, the Government did not spend

resources to improve the infrastructure of the village and let the village dilapidate. It was a common phenomenon as in most of the villages of the Country Park Enclaves. In anticipation of a small demand for Small Houses, the Government only designated small “V” zones for villages in those newly prepared OZPs for the Country Park Enclaves. It would deprive the villages of their opportunity to survive and further develop. Indeed, many of the old villagers who had emigrated to make a living at their young age would like to return to their villages to live in retirement, but they were very often disappointed by the dilapidated conditions of their villages when they came back;

- (d) the Government’s village policy in the colonial era was much better than today as it used to adopt different standards in the planning of infrastructure for villages and urban areas in the past. Most of the existing infrastructure in the villages was provided during the 1950s to 1970s. Whether existing villages in Hong Kong could continue to survive would depend on the investment on infrastructure provision by the Government. If the Government did not improve the living conditions of villages, many of the beautiful village landscapes in the rural area of Hong Kong would become dilapidated and vanish;
- (e) the Government had the responsibility to improve road access, electricity, water supply, and drainage and sewage services for villages. The villagers expected the Government to construct a communal sewage system for each village for the protection of the environment, hence allowing the villages to further develop; and
- (f) he supported the World Wide Fund for Nature Hong Kong’s advocate for the Government to develop and adopt a holistic conservation policy and set up a conservation fund, which was similar to the proposal of Heung Yee Kuk. With the conservation fund, the Government could exchange with, purchase or lease the villagers’ land if it considered that the private land owned by villagers was worthy for conservation. If the villagers could retain ownership of the land inherited from their ancestors, they

would be willing to lease their land to the Government for conservation. However, the Government should not use planning as a tool to restrict the land owners' right by designating their private land as conservation zones.

R2 – Ho Chi Chiu, Indigenous Inhabitant Representative of Pak Sha O

23. Mr Ho Chi Chiu made the following main points:

- (a) he was the IIR of Pak Sha O;
- (b) most of the villagers of Pak Sha O moved out in the 1960s to 1970s due to the lack of road and infrastructure provision in the village. Many of the villagers emigrated to the United Kingdom (UK) as labour since Hong Kong was under British rule at that time. The villagers engaged in manual work of the lower class in the UK, such as working in restaurants and food shops, and had a very hard life. The villagers were reluctant to leave their homeland but they were forced to do so in order to improve their living conditions;
- (c) he had lived in the UK for some years and had contacts with many emigrant villagers of the New Territories. He had also been a teacher of Chinese school in the UK to teach the younger generations of the Chinese emigrants. The emigrant villagers sent their children to the Chinese schools to learn Chinese language as they wished their children to return to Hong Kong to work one day and live in their own village;
- (d) the elder emigrant villagers only had a limited social network in the UK as they did not speak English well and could not integrate with the community. Many of them spent their lives in casinos which provided them with food and air-conditioning, and ended up losing their money in the casinos. Although the old villagers wanted to come back to Hong Kong, many of them could not afford the high living cost. The old villagers' wish to return to their village was like the life cycle of salmon in which the adult salmon would strive to return to their natal streams to

spawn; and

- (e) he hoped that the Board could understand the wish of the Pak Sha O villagers and let them have the opportunity to build their houses in their homeland for living.

24. As the presentations from the presenter and the presenters' representative were completed, the Chairman invited questions from Members.

25. A Member asked Mr Ho Chi Chiu (R2) the estimated number of emigrant villagers who would like to return to live in Pak Sha O. In response, Mr Ho said that while he did not have an exact figure in hand, he roughly estimated that there should be more than 200 male villagers of Pak Sha O who were over the age of 18 and most of them were residing in the UK at the moment. Due to the high living cost in Hong Kong and the dilapidated conditions of the village houses in Pak Sha O, only a small number of emigrant villagers had returned to Hong Kong. However, he would not preclude the need and wish of the future generations to return to Hong Kong, and hoped that the OZP would cater for the housing need of the villagers and their future generations.

26. Noting that it might mainly be the elder emigrant villagers who would like to return to Pak Sha O to live in retirement, the same Member asked Mr Ho Chi Chiu how many villagers of Pak Sha O, out of the roughly 200 male villagers he estimated, were of the age of over 50 at the moment. In response, Mr Ho said that although he did not have the enquired information in hand, he believed that the younger adult villagers (those at the age of 18 to 50) were willing to come back to Pak Sha O to build new houses or rebuild their old houses if they had the financial ability and the relevant policy permitted them to do so. The younger villagers who were more educated would treasure the history of their village and be keen on preserving the old village. The villagers' willingness to return would depend on whether the Government would provide more infrastructural support to the village. In the past, Hoi Ha was the most barren village in the area due to its remoteness from the Tai Po township. However, after road access was provided to Hoi Ha, the village developed progressively and many emigrant villagers returned to live in the village. If the infrastructure in Pak Sha O could be improved, the emigrant villagers would return too.

27. In response to the Chairman, Mr Li Yiu Ban (representative of R1 and R4) said that it might be difficult for the IIR to provide the Board with an accurate figure on the number of adult villagers of his village since the villagers had already scattered in different places. However, it should be noted that if the villagers did not return and apply for development of Small Houses, the mere designation of “V” zone on the OZP would not alter the physical environment of the village. Indeed, the villagers only wished their right for Small House development be reflected on the OZP to comfort their mind. While other people might worry about the abuse of the Small House application system, the issue could be dealt with separately through liaison between the Government and Heung Yee Kuk.

28. As the representer and representers’ representative had finished their presentations and Members had no further question to raise, the Chairman said that the hearing procedures for Group A had been completed. The Board would deliberate on the representations upon completion of the Group B hearing in the absence of all representers/commenters or their representatives and would inform them of the Board’s decision in due course. The Chairman thanked the representer and representers’ representative of Group A for attending the hearing. They left the meeting at this point.

Group B

(R516 to R1807 and C1 to C36)

Presentation and Question Sessions

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

Representers, Commenters and Their Representatives

R516 – Green Power

R517 – World Wide Fund for Nature Hong Kong

Mr Lau Shiu Keung, Tobi] Representers’ representatives

Mr Andrew Chan]

R518/C3 – Kadoorie Farm and Botanic Garden Corporation

R530 – Gary WJ Ades

R531 – Tony Nip

R536 – Mark Isaac Williams

R538/C4 – Chiu Sein Tuck

- Mr Nip Hin Ming Tony - Representer and Representers/Commenters' representative
- Mr Chiu Sein Tuck - Representer, Commenter and Representers/Commenter's representative

R519 – The Conservancy Association

R872 – Vicky Yung

R1487 – Winnie Ching Heung Kwan

- Mr Ng Hei Man] Representers' representatives
- Mr Leung Tak Ming]

R520 – The Hong Kong Bird Watching Society

R1328 – Lo Wai Yan

- Ms Woo Ming Chuan - Representers' representative

R521/C2 – Designing Hong Kong Limited

R559 – Debby Chan

R1331 – Ng Chun Wing, Miffy

- Mr Paul Zimmerman - Representers/Commenter's representative
- Ms Ng Chun Wing, Miffy - Representer and Representers'/Commenter's representative

R523 – Friends of Hoi Ha

- Mr David Newbery - Representer's representative

R524 – The Professional Commons

- Mr Stanley Ng] Representer's representatives
- Mr Chau Chun Kit]

R526 – Kaitak, Centre for Research and Development, Academy of Visual Arts,
Hong Kong Baptist University

Ms Wong Suk Ki - Representer's representative

R528 – Christophe Barthelemy

R546 – Tim Collard

Mr Christophe Barthelemy - Representer and Representer's representative

R529 – Ruy Barretto

Mr Ruy Barretto - Representer

R533 – Kwan Long Hei Matthew

Mr Kwan Long Hei Matthew - Representer

R769 – Leung Tak Ming

Mr Leung Tak Ming - Representer

R844 – Wilfred Siu

Mr Paul W.K. Li - Representer's representative

R1243 – Christine Giles

Ms Christine Giles - Representer

R1390 – Nicola Newbery

Mr Thomas Edwin Goetz] Representer's representatives

Mrs Lauralynn Goetz]

R1802 – Hsu Wai Lun

Mr Hsu Wai Lun - Representer

C32 – Ho Wai Kin

Mr Carey Geoffrey - Commenter's representative

30. The Chairman extended a welcome and briefly explained the procedures of the hearing as follows:

- (a) DPO/STN would first brief Members on the background;
- (b) the representers or their representatives would then be invited to make oral submissions in turn according to their representation number, followed by the oral submissions by the commenters or their representatives. To ensure the efficient operation of the meeting, each representer/commenter or his representative would be allotted 10 minutes for making oral submission. There was a timer device to alert the representers/commenters or their representatives 2 minutes before the allotted time was to expire, and when the allotted time limit was up;
- (c) a Q&A session would be held after all attending representers/commenters of Group B or their representatives had completed their oral submissions. Members could direct their questions to government representatives, representers/commenters or their representatives; and
- (d) after the Q&A session, the representers/commenters of Group B or their representatives and the government representatives would be invited to leave the meeting. The Board would then deliberate on the representations in the absence of the representers/commenters, their representatives and the government representatives, and would inform the representers/commenters of the Board's decision in due course.

31. R528, R529 and the representatives of R517, R518, R519, R520, R521, R523 and C32 requested to make their oral submissions in their proposed order after other representers and commenters had made their presentations. As no objection to the proposed arrangement was raised by other attendees, Members agreed to accede to the request.

32. The Chairman then invited DPO/STN to brief Members on the representations and comments.

33. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, repeated the presentation as recorded in paragraph 20 above.

[Dr Frankie W.C. Yeung arrived to join the meeting and Professor S.C. Wong left the meeting temporarily at this point.]

34. The Chairman then invited the representers, commenters and their representatives to elaborate on their submissions.

R524 – The Professional Commons

35. With the aid of a PowerPoint presentation, Mr Stanley Ng made the following main points:

- (a) he was the Chair of The Professional Commons and a town planner;
- (b) although DPO/STN mentioned in his presentation that no reports on adverse environmental impacts had been received in the area after the commencement of agricultural rehabilitation activities in Pak Sha O, it was not the case;
- (c) the Pak Sha O area was a valley. Water flowing in the streams of the area would eventually flow into Hoi Ha Wan. From the reefcheck coral cover data of the past 12 years from 2004 to 2016, it was revealed that there had been a significant decline of coral cover in Hoi Ha Wan last year;
- (d) The Professional Commons recommended in 2013 that the Country Park Enclaves of Hoi Ha and Pak Sha O should be designated as Country Park, otherwise there would be environmental disaster. However, the Government insisted in gazetting the Hoi Ha OZP which only benefited the developers but put the environment at risk;

- (e) in December 2015, some developers cleared vegetations in the Pak Sha O valley for surveying. It was also noted that the restored farmland in Pak Sha O had regularly applied doses of fertilizer which polluted the nearby streams. Some houses along the beach front at Hoi Ha village also pumped sewage into Hoi Ha Wan Marine Park continuously. All such activities contributed to the increase in algae and sea urchin levels, decline of coral cover and dying of fish at Hoi Ha Wan. Half a square kilometre of the coral cover in Moon Island was eaten by urchins in less than two months' time, and the coral cover in Moon Island had dropped from 31.9% to 2%. The coral cover in Coral Beach was also in decline. The Board should be responsible for the death of Hoi Ha Wan Marine Park;
- (f) environmental scientists at the University of Hong Kong had predicted that the significant decline of coral cover in Hoi Ha would happen. AFCD said that the decline of coral cover in Hoi Ha was the consequence of climate change, but there was no evidence of any coral cover change in other surrounding coral areas at Tung Ping Chau and Sai Kung. As such, the cause of the problem was due to local circumstances;
- (g) the wetlands in Pak Sha O provided constant collection and delivery of fresh water to Hoi Ha Wan Marine Park. However, the recent agricultural activities on the wetlands of Pak Sha O had increased the amount of nutrient pollution flowing down the stream. Some critically endangered species, such as Chinese pangolin, were also affected;
- (h) to resolve the environmental problems, Pak Sha O should be designated as Country Park as soon as possible and no "AGR" zone should be designated at all. Only minimal extension of the existing village to the less environmentally sensitive areas could be considered. The architectural and historical assets of Pak Sha O village should also be protected;
- (i) if the Government wanted to allow development in Pak Sha O, the development area should be zoned as "Comprehensive Development

Area” such that a full EIA, taking into account the effect of the proposal on the endangered species and Hoi Ha Wan Marine Park, should be carried out before the commencement of any development; and

- (j) the Board should direct the Government to implement a recovery plan for the coral reef in Hoi Ha as soon as possible.

R526 – Kaitak, Centre for Research and Development, Academy of Visual Arts, Hong Kong Baptist University

36. Ms Wong Suk Ki made the following main points:

- (a) a book entitled “A Living Space: The Homes of Pak Sha O” was published in October 2015 by the Kaitak, Centre for Research and Development. The idea of publishing the book originated from what happened about 10 years ago when she learned that there was a place like paradise in Hong Kong, which was Pak Sha O. When she first visited the place, she was amazed by the spectacular landscape of the vernacular Hakka village cluster which she had never seen in Hong Kong;
- (b) unlike other single historic buildings preserved in Hong Kong, which might not be compatible with their neighbouring buildings, the village cluster of Pak Sha O was a living heritage. The group of buildings manifested the genuine Chinese culture;
- (c) when she went to the village, she discovered that the interiors of some houses were decorated in western style. She was interested to know what had happened to the village. Therefore, she and her colleagues spent two years studying the village and interviewing the indigenous villagers and the tenants who were living there. Her team had also interviewed some indigenous villagers who were residing abroad. When the book was published, she held a book launch event to let the young people of Hong Kong know that Hong Kong was an interesting place to live in. It would be a pity if the ambience of the village disappeared; and

- (d) from her contacts with the indigenous villagers, she noted that although some elder emigrant villagers might wish to return to the village, they might not actually do so as they did not have the financial resources or they were already too old. The younger generation generally had no passion for the place. They might only be interested in selling their land and property and reaping the profit. She queried the validity of the figure of roughly 200 male villagers in relation to Small House demand estimated by the IIR of Pak Sha O in the Group A hearing session.

R533 – Kwan Long Hei Matthew

37. Mr Kwan Long Hei Matthew made the following main points:

- (a) he was one of the researchers of the book “A Living Space: The Homes of Pak Sha O”;
- (b) although the OZP stated that it recognised the ecological importance of the area and the historical and cultural values of Pak Sha O village, it failed to recognise that any development could generate potential impacts on the surrounding areas of conservation concern, such as the lower sections of Hoi Ha Stream and Hoi Ha Wan Marine Park;
- (c) although a buffer zone was created between the “V” zone and the streams, any new development in the “V” zone might result in the deterioration of the habitats along the streams which were high in ecological value;
- (d) as the area was susceptible to flooding in wet season, the use of STS systems for sewage treatment and disposal in the “V” zone was impractical;
- (e) as Pak Sha O was located within WGG, the catchment areas should be carefully protected to avoid contamination of the water sources;

- (f) the streams in the area possessed high ecological value with many species of conservation concern being found, including the rare Three-lined Bagrid fish. They could be a resource for nature education;
- (g) the current farming activities in Pak Sha O should be more closely monitored and controlled as they had already caused damage to Hoi Ha Wan Marine Park;
- (h) the overall structure of the existing Hakka village should be preserved;
- (i) the “V” zone should be maintained as agricultural land so that no new houses would be erected in the area to block the view to the existing village; and
- (j) a developer had already bought large areas of agricultural land in the “V” zone. He was highly suspicious of the Small House applications in the “V” zone which were submitted in a coordinated manner.

R1243 – Christine Giles

38. Ms Christine Giles made the following main points:

- (a) she was an indigenous villager of another village and had been living in Pak Sha O and Nam Shan Tung since 1986;
- (b) Pak Sha O had no flooding problem in the past. However, when the wetland to the north of the village was turned to farmland, flooding occurred in the recent two years. The farmers also applied fertilizers and insecticides to the farmland, which polluted the environment and generated bad odour; and
- (c) she hoped that the Government could help preserve the existing Hakka village of Pak Sha O as it was a beautiful place with architectural merit, and every person praised for the beauty in the area.

R1390 – Nicola Newbery

39. Mr Thomas Edwin Goetz made the following main points:

- (a) he was a resident of Pak Sha O. He and his wife rented a house in 1995 from their landlord who was an indigenous villager of Pak Sha O currently residing in Liverpool. Their landlord loved the pride of maintaining his ancestral house;
- (b) the villagers found Pak Sha O deep in a hidden valley over 150 years ago, which was a time when pirates were prevalent;
- (c) there was a 135 years old Catholic church in the village which was well preserved;
- (d) the Discovery Magazine of Cathay Pacific and the Sai Kung Magazine published two feature articles on Pak Sha O recently, introducing to people the history and beauty of the place; and
- (e) the preservation of Pak Sha O as a beautiful architectural heritage of the Hakka community was important to Hong Kong.

R1802 – Hsu Wai Lun

40. Mr Hsu Wai Lun made the following main points:

- (a) he had visited Pak Sha O village many times and had contacted many residents and indigenous villagers of Pak Sha O when he was involved in the publication of the book “A Living Space: The Homes of Pak Sha O”;
- (b) he knew two female indigenous villagers of Pak Sha O who did not want to sell their ancestral properties. However, as the ownership of the properties was not in their hands, their ancestral houses were sold by their family members. Every year when they returned to their home village for

worshipping, they could only stay outside their ancestral houses;

- (c) he wondered if the demand of the indigenous villagers for returning to live in the village was genuine, and if the demand should only be related to the male villagers but not the female villagers;
- (d) from his observation, there were about 10 households and less than 50 people living in Pak Sha O currently, and none of the residents was indigenous villager;
- (e) the farmer who was working on the rehabilitated farmland was not an indigenous villager. He only rented the farmland from a landlord;
- (f) although there was an IIR in Pak Sha O, he was not living in the village. There should be a village representative from the residents who were not indigenous villagers; and
- (g) if the Board allowed the conversion of agricultural land for house development, it would give a false message to the public.

R520 – The Hong Kong Bird Watching Society

R1328 – Lo Wai Yan

41. With the aid of a PowerPoint presentation, Ms Woo Ming Chuan made the following main points:

- (a) she appreciated that the Board/PlanD had taken into consideration some of points submitted by the Hong Kong Bird Watching Society (HKBWS) in the preparation of the Pak Sha O OZP. According to the Explanatory Statement (ES) of the OZP, Pak Sha O was encircled by Sai Kung West Country Park and comprised mainly woodland, scrubland, active agricultural land, low-lying freshwater marshes, streams and village settlements. The woodland was ecologically-linked to the natural habitats in the Country Park and supported protected plant species;

- (b) from 1999 to 2014, the HKBWS had recorded 175 species of birds in Pak Sha O which was one-third of the species recorded in Hong Kong. Amongst them, 57 species were of conservation concern such as Yellow-breasted Bunting, Japanese Paradise Flycatcher, and Speckled Piculet. There were waterbirds and wetland dependent birds, woodland birds, open country birds, and 16 species of raptors in the area. Such diversity implied that Pak Sha O was an area of very high ecological value. For example, the Brown Fish Owl, which was scarce in Hong Kong, was of Regional Concern and listed under Class II protection in China, and the woodlands in Pak Sha O were their breeding and roosting grounds. Also, the natural streams and vegetation were suitable foraging grounds and perches for them. In addition, over 1000 species of flora and fauna in the area were recorded. As the area was of high biological diversity and conservation value, it should be adequately protected;
- (c) according to Chapter 10 of Hong Kong Planning Standards and Guidelines (HKPSG) on conservation, significant landscapes, ecological and geological attributes and heritage features should be retained as conservation zones, and adjoining uses should be controlled to minimise adverse impacts and optimise conservation value. The planning intention of the draft OZP was to conserve the high natural landscape and ecological significance in order to safeguard the natural habitat and natural system of the wider area. Conservation zonings should therefore be provided to reflect the planning intention and conservation principles;
- (d) she then provided the Board with some information on land transaction/Small House grant application in Pak Sha O between the period of 2007 and 2015 as follows:
- 2007 to 2012 - some land within the new “V” zone was acquired by a developer;
 - 2009 to 2011 - 14 Small House grant applications were received by LandsD;

- 23.5.2012 - the developer sold the land of the 14 Small House sites to villager;
 - September 2012 - a farmer was hired to farm the land within the “V” which was freshwater marshes of high ecological value;
 - December 2012 - the Pak Sha O DPA Plan was exhibited for public inspection;
 - 24,7.2015 - preliminary consideration of the draft OZP with a large area of 1.49 ha was proposed for “AGR” zone;
 - 13.11.2015 - further consideration of the draft OZP, such area was proposed for a new “V” zone; and
 - 4.12.2015 - the OZP was exhibited for public inspection;
- (e) during further consideration of the OZP by the Board, AFCD had reservation on the proposed “V” zone from agricultural point of view, but had no strong view from nature conservation perspective as the area had been disturbed by farming activities. A Member of the Board also said that the stream abutting the village access path was disturbed and the ecological value of its riparian zone should not be significant. According to the press release issued by the Board in 2011 on the adoption of approaches to deter ‘destroy first, build later’ activities, the Board was determined to conserve the rural and natural environment and would not tolerate any deliberate action to destroy the area hoping that the Board would give sympathetic consideration to subsequent development. However, Pak Sha O was clearly a case of ‘destroy first, build later’, and the area was degraded by the agricultural activities. Making use of agriculture rehabilitation to degrade ecological value for development was not uncommon in the rural area, but Pak Sha O might be the first area in which Small House grant applications could be approved; and
- (f) the HKBWS requested the Board to note that Pak Sha O area was of high ecological and conservation values, not to tolerate and facilitate any “destroy first, build later” activities, and to delete the new “V” zone on the OZP.

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

[Dr Frankie W.C. Yeung left the meeting at this point.]

R516 – Green Power

R517 – World Wide Fund for Nature Hong Kong

42. With the aid of a PowerPoint presentation, Mr Lau Shiu Keung, Tobi made the following main points:

- (a) WWF-HK objected to the proposed amendment of the new “V” zone from nature conservation and ecological perspectives. Pak Sha O was a site of ecological importance containing 10 habitats that supported over 1,000 floral and fauna species. The habitat mosaic of Pak Sha O showed various habitats including cultural village area, ruderal species, dry agricultural land, *fung shui* wood, grassland, marsh, seasonal wet grassland, etc. There were 1148 species recorded including various species of fungi, plants, gasteropods, insects, non-insect arthropods, fish, amphibians, reptiles, birds and mammals;
- (b) many wildlife would require a mix of habitats and the existence of diverse habitats in a small place like Pak Sha O contributed to its high biodiversity which enhanced the balance of the ecology system, sustainable development, as well as human existence;
- (c) the ecological importance of Pak Sha O rested on its high biodiversity. According to the International Union for Conservation of Nature, Chinese Red Data Book, and Fellowes, there were 24 species of conservation concern in global/regional scale in Pak Sha O, of which three were critically endangered, seven were endangered, and one was of global concern. Besides, there were 72 species of conservation concern in local scale, of which 17 were mammals, 35 were birds, seven turtles/frogs/snakes, 13 were dragonflies and butterflies, and one new species. In view of such high biodiversity, Pak Sha O was of

conservation importance;

- (d) an example of species of global concern was *Pseudobagrus trilineatus*. Vulnerable species included *Naja atra* and *Prionalurus bengalensis*. There were 115 species of butterfly, 8 of them were rare species such as *Dichorragia nesimachus formosanus*, which accounted for 45% of all the butterfly species found in Hong Kong;
- (e) the proposed zonings were self-contradictory as the ecological importance of Pak Sha O was recognised by the OZP. While paragraph 8.1 of the ES stated that "... to conserve the high natural landscape and ecological significance of the Area in safeguarding the natural habitat and natural system of the wider area", the proposed zonings imposed development threat which would degrade the habitat quality and would result in agriculture habitat loss that the wildlife species depended on. The "V" zone would cause indirect impacts such as disturbance, and water and light pollution to the adjoining areas including water course, woodland, marsh and grassland, resulting in the loss of biodiversity;
- (f) the proposed zonings were not in line with Chapter 10 of HKPSG. Instead of 'to retain significant landscapes, ecological and geological attributes and heritage features as conservation zones' (Section 2.1(i)) and 'to control adjoining uses to minimise adverse impacts on conservation zones and optimize their conservation value' (Section 2.1 (iii)), the OZP was completely running in the opposite 'to release adjoining uses to optimize adverse impacts on conservation zones and minimise their conservation value'; and
- (g) using Sha Tau Kok as an example, he showed how the "V" zone with the provision of vehicular access would adversely affect the natural habitats and the wildlife inhabiting the area. He therefore requested that the "V" zone should be deleted from the OZP.

R523 – Friends of Hoi Ha

43. With the aid of a PowerPoint presentation, Mr David Newbery made the following main points on water quality issue:

- (a) water quality issue was very important in the planning of Pak Sha O because the area was within WGG and the water from the stream downstream was for public consumption, the stream flowing through Pak Sha O was designated as an EIS, and it flowed down into Hoi Ha Wan Marine Park/Site of Special Scientific Interest (SSSI);
- (b) the village of Pak Sha O was the only source of pollution for the whole stream complex due to domestic waste, agricultural chemicals, and silt from agricultural and building activities. If those waste products were improperly treated, the residue might pollute the drinking water, the EIS, Hoi Ha Wan, and the surrounding Country Park. Threats to drinking water supply would be resulted when there was an increase in nutrient levels in the reservoirs which would lead to a reduction of oxygen levels, and a subsequent increase in algae and other harmful/poisonous organisms. The polluted water would spread disease and introduce poisonous chemicals and medical drugs into the drinking water. There would be similar threats to the environment which would destroy the delicate ecological balance;
- (c) the water problems were recognised as it was stated in paragraph 4.1(h) of the ES of the OZP that “In general, the use of STS systems for sewage treatment and disposal was considered as an unacceptable means for new village developments in WGG” and paragraph 4.1(j) that “.... the use of pesticide within WGG was not allowed. As for the use of other chemicals including fertilizers, prior approval should be sought from WSD”;
- (d) the area in the “V” zone was not appropriate for STS systems as it consisted former paddy fields ‘rehabilitated to farming’ that had a high

water table and was waterlogged, which meant that sewage would not be treated properly. WSD had stipulated that STS systems were not suitable for WGG. However, the OZP stated that '*In general*, the use of STS systems ... was considered ... unacceptable'. That gave leeway for LandsD to approve STS systems on an individual basis. ProPECC 5/93 issued by EPD gave specifications for STS systems and required a "percolation test" to ensure that the ground was not waterlogged. Under a secret agreement between EPD and LandsD in 2009, LandsD adopted the "Drainage and Health Requirement for Village Type Houses" which specified that ProPECC 5/93 was only to be used when the STS systems were within 15m to 30m of a stream, spring, well or beach. Outside of 30m, less restrictive specifications were used and percolation test was not required;

- (e) under the OZP, STS systems might be allowed on an 'individual basis' in WGG, and poorly treated sewage would enter the public water supply, EIS and Hoi Ha Wan Marine Park/SSSI. The Board should insist to specify that STS systems were not allowed within the OZP and alternative methods were to be employed;
- (f) the introduction of agricultural fertilizers had affected the oxygen balance of the water ecosystems. Agricultural activities could introduce large quantities of silt into watercourses. Many pesticides were extremely toxic to water-based organisms and were harmful to the environment. For example, Chlorpyrifos and Chlorothalonil, which were frequently used by local farmers, were very highly toxic to aquatic organisms. The ban on the use of agricultural pesticides and the use of fertilizers with permission was mentioned in the ES of the OZP but not in the Schedules of Uses. 'Agricultural Use' should be a Column 2 use and a remark should be added to specify the ban on the use of pesticides and fertilizers. No agricultural activities should be allowed within 30m of any watercourse to prevent silt from entering the water;

- (g) farming in Pak Sha O ceased 30 years ago. The present agricultural activities only started after developers had bought most of the land. The farming activities were mainly on land now zoned “V”, which was obviously a “Trash First, Develop Later” tactic. As such, agriculture should not be allowed in Pak Sha O; and
- (h) water quality was an important issue for the Pak Sha O, the Board should therefore ban the use of STS systems for sewage disposal, restrict agricultural activities to genuine farming without the use of pesticides and with minimal use of fertilizers. Those restrictions should be specified in the OZP clearly and unambiguously, with no potential loopholes.

44. R528/R546 requested to let C32 make his oral submission first. Noting that there was no objection from other representers, C32 was invited to make his oral submission.

C32 – Ho Wai Kin

45. With the aid of a PowerPoint presentation, Mr Carey Geoffrey made the following main points:

- (a) he was speaking for C32, his landlord, who was an indigenous villager of Pak Sha O. The focus of his presentation was on landscape and visual impacts of developments in Pak Sha O valley, especially in relation to the unique built heritage embodied in the existing village. Pak Sha O was a unique place and the Hakka heritage was worthy of protection;
- (b) the area, surrounded by Country Parks, was characterised by natural woodland, seclusive, peace and with a low level of existing developments. The proposed village houses in the new “V” zone would be incompatible with the existing landscape and buildings, causing serious adverse landscape impact to users of the Country Parks. Future generations would lose sight of their indigenous ancestors living in harmony with the environment which was an important history of Hong Kong. As such, the “V” zone should be deleted;

- (c) according to the AMO, the two villages of Pak Sha O and Pak Sha O Ha Yeung were outstanding vernacular Hakka villages, well preserved with historical and cultural heritage buildings including the Ho Residence and Ho Ancestral Hall (Grade 1), the Immaculate Heart of Mary Chapel (Grade 3), the King Siu Sai Kui and Hau Fuk Mun (proposed Grade 1). AMO's assessment was insufficient in that it did not explicitly recognise the group value of the village as a whole. The two villages were unique and untouched by modern buildings. A permanent display in the Hong Kong Heritage Museum identified Pak Sha O as an archetypal Hakka village in Hong Kong's history and a valuable public resource;
- (d) the planning intention of the OZP, amongst other, emphasised preserving the existing Hakka village setting and avoiding possible adverse impact on the heritage value of historic buildings arising from changes. The setting there referred to both the natural condition of the valley as a whole and the current setting of the village itself. The visually intrusive and out of context Small House development would result in permanent damage to the built heritage value of Pak Sha O. He doubted to what extent the draft OZP could provide sufficient protection to the village setting as a whole;
- (e) the current control that any proposed house and building works would require planning permission was insufficient to guarantee the preservation of the existing village setting as it allowed demolition of structurally-sound buildings and/or construction of inappropriate buildings that did not reflect the vernacular architecture. The OZP restrictions did not reflect the group value of the buildings or cultural heritage importance of the village as a whole. It would not be able to deter the activities by private developers who would unlikely be respecting the existing architectural style;
- (f) one of the key concerns for development in Pak Sha O was building height as the existing buildings were either of 1 storey or 2 storeys. The OZP allowed 3-storey buildings, which would pose a significant potential

adverse impact on the heritage value of the village and thus more stringent height restriction would be required;

- (g) Small House development would not be compatible with the building style and façades of the existing village house. Typical Small House development would ruin the sense of place and blending of village into the natural environment. The “V” zone was also too close to the existing village with only 20m in between, and should thus be deleted;
- (h) he had no intention to restrict the right for development, but attempted to protect the heritage from being harmed for the sheer benefit of private developers. Revitalisation should be done in a way that would protect the built heritage and architectural guidelines should be stipulated in the OZP, which included no unnecessary demolition but renovation; the proportion and scale of new development should replicate the surrounding houses; building height should not exceed the existing houses; building layout should replicate the existing structures/ruins; the main façades should be the same as the existing houses; imported architectonic elements should not be permitted; to respect the existing design, and external appearance of new development should remain the same; and
- (i) he concluded that the “V(1)” zone was not for no development at all, but should be for appropriate development.

R528 – Christophe Barthelemy

R526 – Tim Collard

46. With the aid of a PowerPoint presentation, Mr Christophe Barthelemy made the following main points:

- (a) his presentation would focus on the ownership pattern in the Pak Sha O valley. Since mid 2000, the developer(s) started purchasing land in the area, and by the end of 2011, large parts of the valley had been sold to a developer particularly areas within the “V” zone. On 23.5.2012, the

developer sub-divided the agricultural lots and assigned/sold most of them to the indigenous villagers, but still controlled small plots of the land;

- (b) from 2009 to 2011, the villagers submitted 14 Small House grant applications, and in 2012, they applied to LandsD for transferring their application sites to those sub-divided lots in the “V” zone. The developer was coordinating a large development scheme which was clearly a fraud in respect of the Small House policy. In view of the latest court case on the illegal ‘Transfer of Small House’ in Sha Tin, the Board should be very careful and should delete the “V” zone. According to his observation, it was only the developer’s Phase 1 development and the related works would cause massive adverse impacts on the heritage, landscape and ecological qualities of the valley. Phase 2 development would probably follow, and the Small Houses developments would have overwhelming negative impacts on the unique qualities of Pak Sha O which the OZP had intended to preserve;
- (c) the “V” zone would destroy the landscape and historical qualities of Pak Sha O as the village access path leading to the village cluster was very close to the “V” zone boundary. Besides, the cumulative effect of development could not be ignored. With around 140 houses which could be developed within the “V” zone, the total population would increase from the existing 150 people to about 1,000. The pressure on infrastructural provision would be tremendous and the adverse impacts would be un-manageable particularly on traffic, sewage and environmental pollution. It was not acceptable to use public money to provide services and infrastructure for the benefit of private developers; and
- (d) he proposed to delete the “V” and “AGR” zones, and expand the “CA” zone with the remaining land zoned for “GB”.

[Mr Thomas O.S. Ho left the meeting at this point.]

R521/C2 – Designing Hong Kong (DHK)

R559 – Debby Chan

R1331 – Ng Chun Wing, Miffy

47. With the aid of a PowerPoint presentation, Ms Ng Chun Wing, Miffy made the following main points:

- (a) her presentation would focus on the ownership and money issues not yet covered by the other representers/commenters. The environmental disaster of development brought by the Small House policy should not be allowed to spread into the Country Parks. It was a choice between incremental development and conservation of Country Parks. Pak Sha O was located within Sai Kung West Country Parks with outstanding landscape quality. It was one of the Country Park Enclaves with high ecological, landscape, and recreation values for public benefits and should not be given up for private development;
- (b) they objected to any extension of the “V” zone outside from existing village cluster of the “V(1)” zone. Their major proposals on the OZP included: (i) to delete the “V” zone from the north of the existing village cluster; and (ii) to delete ‘House (NTEH only)’ from Column 2 of the “AGR” and “GB” zones, or to replace “AGR” or “GB” zone by “AGR(2)”, “GB(1)” or “CA”;
- (c) they noted that the approval rates for planning application for Small House during the period from 2003 to 2012 were as high as over 60% and 56% in “AGR” and “GB” zones respectively, and hence ‘House (NTEH only)’ should be deleted from Column 2 of those two zones to ensure land use certainty as the planning intention of the two zones were not for accommodating Small House. The “AGR(2)” and “GB(1)” zones where ‘House (NTEH only)’ was not a Column 2 use did not take away the rights of the land owners of agricultural lots and also respected the farming efforts as well as need for conservation. The “AGR(2)” zone was the best approach for Country Pak Enclaves as it would support the existing

agricultural activities and would avoid competition from other higher return uses such as Small House developments. Enforcement action against eco-vandalism had been very difficult under the Ordinance, the Government should remove the incentives for development through the zoning mechanism;

- (d) as regards the evolution of the current “V” zone on the Pak Sha O OZP, the previous proposed “V” zone for Pak Sha O Village on the DPA Plan was reduced to cover mainly the core village clusters during the preliminary consideration of the draft OZP (No. S/NE-OZP/B). Upon further consideration of the OZP (No. S/NE-OZP/C), the “V” zone was amended to “V(1)” to incorporate more restrictions, and a large area which was first designated for “AGR” on the draft OZP No. S/NE-OZP/B to the north of the “V(1)” zone, was zoned “V” to meet the Small House demand after a series of liaison with SKNRC and the IIR rather than with the villagers themselves. As a result, there was an increase in area to accommodate an increase of 28 Small Houses in the area. Noting the numerous press headlines on the selling of the Small House right and that the land involved in outstanding Small House applications in Pak Sha O were in fact owned by a private developer, she queried if there was a genuine Small House demand in the area;

- (e) her organisation had written to the Board on the suspected selling of Small House rights in Tai Tan, and the Secretary of the Board on 7.7.2016 replied that the boundary of the “V” zone, amongst other, would be drawn up having regard to the ‘VE’, existing village cluster, local topography, site characteristics, Small House demand forecast as well as concerned departmental comments. Whilst the 10-year Small House demand forecast was provided by the IIRs to LandsD without any justification, the figures would affect the size of the proposed “V” zone. In the TPB Paper No. 10019 prepared for further consideration of the Pak Sha O OZP on 13.11.2015, PlanD stated that the area mainly comprised private land falling within the ‘VE’ where about 14 Small House applications had been received by LandsD before the gazetting of the DPA Plan in December

2012. She wondered to what extent those applications reflected the genuine Small House demand;

- (f) from 2009 to 2011, 14 Small House grant applications were received by LandsD. She doubted how those indigenous villagers could apply for Small House on the land which was not owned by them. According to LandsD, the 14 applicants had transferred their application sites to the proposed new “V” zone between May and December 2012 in which the land was previously owned by a developer. The developer sub-divided the land and sold them to the 14 applicants on 23.5.2012. The “V” zone was designated on the draft OZP and published on 4.12.2015. The Board should take into account those transfers of land ownership in considering representations/comments to the OZP as the planning intention of the “V” zone was for development of Small House by ‘indigenous villagers’ and not others;
- (g) referring to the latest verdict of the Sha Tin ‘Front Men Scheme’ court case (No.DCCCC25/2015), ‘Front Men Scheme’ meant that the male inhabitants with right to build Small House but with no land agreed with the real estate developer, who had the land but without right, that they would sell the right to the developer, who would then transfer the land to them. However, the male inhabitants did not need to pay for the land or would pay below the market price. They would then apply for Small House on behalf of the developer. LandsD, when responding to whether selling indigenous villagers’ rights to build Small Houses involved criminal offences, stated that there was a warranty clause stipulated in the Small House grant, to warrant that the applicant would not make any arrangements to transfer his right and that that commitment would be based on trust between the applicants and LandsD. The selling of Small House right was widely known for more than 20 years and the trust was gone;
- (h) with regards to the transfer of land ownership in Pak Sha O, an area of about 35,418.96m² within the OZP boundary was bought by Xinhua

Bookstore Xian Jiang Group Ltd. (Xinhua Bookstore) from 2007 to 2012 with an amount of HK\$16,697,827. In 2012, the developer divided the 18 land lots into 47 land lots and transferred them to the villagers. The land was mostly owned by Xinhua Bookstore and other villagers who were not the Small House applicants. On 17.5.2012, the land lots were still owned by Xinhua Bookstore, but on 23.5.2012, it sub-divided them and sold the 14 Small Houses land lots to the applicants on the same date. All those arrangements were completed before publication of the DPA Plan. She wondered if the sites of the remaining 38 outstanding Small House demand were all located on land owned by the developer within the “V” zone;

- (i) in the case of Pak Sha O Ha Yeung, the extension of the “V” zone proposed by the IIR was not close to the village cluster, but mostly on land owned by Xinhua Bookstore as well;
- (j) the general land sale price for building a Small House was around \$300,000 in 2014 according to the Land Justice League, it was about \$1.4 million in Tai Po in 2011 according to Ming Pao, and about \$250,000 to \$1,150,000 in 2009-2015 based on their own research in Uk Tau, Tai Tan, Ko Tong area. However, the Small House land sale price in Pak Sha O were as low as \$40,000 to \$115,000 in 2012; and
- (k) the applicants were ordinarily residing overseas. According to the author of the book “A Living Space: The Homes of Pak Sha O”, the overseas villagers had no intention to return to live in Pak Sha O, and they just wanted to get as much as they could in selling their land. All the existing residents in Pak Sha O were tenants instead of villagers. According to their estimates, the future population of the Sai Kung Country Park Enclaves would grow from the present 1,183 to about 5,000.

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

- (a) he supplemented that the above researches presented to the Board were carried out by DHK or other concern groups and such researches should have been done by the Board or PlanD. Indeed, LandsD should have all the land transfer records and it was ridiculous that they were not included in the TPB papers for consideration of the Pak Sha O OZP. He doubted whether it was a coincidence that the proposed “V” zone overlapped with the land of a private developer. According to the latest information he obtained on the deals related to transferring Small House rights, it was noted that the land sale price would cost about \$1,800 per ft², the ‘ding’ right was about \$1 million, construction was about \$1.8 million, village representative involving in the deal would get half a million dollar, and the premium for the developer was \$2.5 million. That involved a huge amount of money;

- (b) Pak Sha O was a beautiful place completely surrounded by Country Parks and was not included into any Country Park only for the historical reason that there were still people farming in the 1960s and 1970s. It was since 1991 that the Government realised the need to protect the Country Park Enclaves. The Ombudsman 2011 Report stated that Government had started internal discussions on protection of the Country Park Enclaves in 1991. The policy bureau for environmental protection was responsible for protecting the Country Park Enclaves, but between 2000 and 2010, it failed to put the protection of the Country Park Enclaves on the priority list for action. Until the Tai Long Sai Wan incident, PlanD had only prepared two statutory plans for the priority sites, which was far from satisfactory;

- (c) according to paragraph 8.2 (f) of the Paper, PlanD stated that there was sufficient control in the current administrative system to ensure that Small House development within the “V” zone would not entail unacceptable impacts on the surrounding environment. However, it was a known fact that there would be no control on Small House within the “V” zone. Besides, according to AFCD’s criteria of 2011, the mere existence of private land would not be automatically taken as a determining factor for

its exclusion from the boundary of a Country Park. The effectiveness of the Ordinance in achieving the nature conservation objective was not as strong as under the CPO as it could not curb eco-vandalism. In addition, in a paper previously submitted to the Legislative Council (LegCo) by EPD, it stated that developments in the Country Park Enclaves might not be compatible with the natural environment of the Country Parks, or might degrade the integrity and landscape quality of the Country Parks as a whole. After the Tai Long Sai Wan incident, there were public aspirations to better protect the Country Park Enclaves and safeguard them against any development that would undermine public enjoyment of the natural environment; and

- (d) in the 2010/11 Policy Address, the Government had pledged that statutory plans should be used for countryside protection to meet conservation and social development needs. In another LegCo brief submitted by EPD in 2013, it stated that PlanD/the Board would not allocate the resources for habitat/amenity improvement. It was under the CPO that the Government would manage, improve, enforce. There were a lot of incidents where PlanD could not carry out enforcement action, thus land filling and authorised parking were found in “V” zones adjacent to conservation areas. He wondered how PlanD could claim that there was sufficient control in the current administrative system to ensure that permitted Small House development would not entail unacceptable impacts on the surrounding environment.

[The meeting was adjourned for lunch break at 12:45 p.m.]

[Mr Jeff Y.T. Lam and Mr Andy S.H. Lam left the meeting at this point.]

49. The meeting was resumed at 2:05 p.m.

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

Mr Michael W.L. Wong	Chairman
Professor S.C. Wong	Vice-chairman
Mr Lincoln L.H. Huang	
Mr H.W. Cheung	
Mr Dominic K.K. Lam	
Mr Patrick H.T. Lau	
Mr Stephen H.B. Yau	
Mr H.F. Leung	
Dr F.C. Chan	
Mr David Y.T. Lui	
Mr Peter K.T. Yuen	
Mr Philip S.L. Kan	
Dr Lawrence W.C. Poon	
Mr K.K. Cheung	
Mr Wilson Y.W. Fung	
Dr C.H. Hau	
Mr Alex T.H. Lai	
Dr Lawrence K.C. Li	
Miss Winnie W.M. Ng	
Ms Sandy H.Y. Wong	
Mr Franklin Yu	
Deputy Director of Environmental Protection (1)	
Mr C.W. Tse	

Chief Engineer (Works), Home Affairs Department
Mr Martin W.C. Kwan

Assistant Director (Regional 3), Lands Department
Mr Edwin W.K. Chan

Director of Planning
Mr K.K. Ling

[Profession S.C. Wong returned to join the meeting at this point.]

Sha Tin, Tai Po and North District

Agenda Item 3 (Continued)

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Representations and Comments

in respect of Draft Pak Sha O Outline Zoning Plan No. S/NE-PSO/1

(TPB Paper No. 10141)

[The item was conducted in Cantonese and English.]

Group B (Continued)

Presentation and Question Sessions

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

Government Representatives

Mr C.K. Soh - DPO/STN, PlanD

Mr David Y.M. Ng - STP/CPE1, PlanD

Mr K.S. Cheung - SNCO(S), AFCD

Representers, Commenters and Their Representatives

R516 – Green Power

R517 – World Wide Fund for Nature Hong Kong

Mr Lau Shiu Keung, Tobi] Representers' representatives

Mr Andrew Chan]

R518/C3 – Kadoorie Farm and Botanic Garden Corporation

R530 – Gary WJ Ades

R531 – Tony Nip

R536 – Mark Isaac Williams

R538/C4 – Chiu Sein Tuck

Mr Nip Hin Ming Tony - Representer and Representers/ Commenters' representative

Mr Chiu Sein Tuck - Representer, Commenter and Representers/ Commenter's representative

R519 – The Conservancy Association

R872 – Vicky Yung

R1487 – Winnie Ching Heung Kwan

Mr Ng Hei Man - Representers' representative

R520 – The Hong Kong Bird Watching Society

R1328 – Lo Wai Yan

Ms Woo Ming Chuan - Representers' representative

R521/C2 – Designing Hong Kong Limited

R559 – Debby Chan

R1331 – Ng Chun Wing, Miffy

Ms Ng Chun Wing, Miffy - Representer and Representers/Commenter's representative

R523 - Friends of Hoi Ha

Mr David Newbery - Representer's representative

R526 – Kaitak, Centre for Research and Development, Academy of Visual Arts,

Hong Kong Baptist University

Ms Wong Suk Ki - Representer's representative

R528 – Christophe Barthelemy

R546 – Tim Collard

Mr Christophe Barthelemy - Representer and Representer's representative

R529 – Ruy Barretto

Mr Ruy Barretto - Representer

R533 – Kwan Long Hei Matthew

Mr Kwan Long Hei Matthew - Representer

R1243 – Christine Giles

Ms Christine Giles - Representer

R1802 – Hsu Wai Lun

Mr Hsu Wai Lun - Representer

C32 – Ho Wai Kin

Mr Carey Geoffrey - Commenter's Representative

52. The Chairman extended a welcome and invited the representers, commenters and their representatives to elaborate on their submissions.

R519 – The Conservancy Association

R872 – Vicky Yung

R1487 – Winnie Ching Heung Kwan

53. With the aid of a PowerPoint presentation, Mr Ng Hei Man made the following main points:

Genuine Demand of Small House

- (a) he had concerns on whether the proposed “V” zone of 0.7 ha on the draft Pak Sha O OZP was designated to satisfy the genuine need of Small House. The existing land within the proposed “V” zone was mostly for agricultural uses. According to information on land ownership, various land lots within the “V” zone were owned or partially owned by a private developer in December 2015. It was also noted that the private developer had already acquired nearly 60% of the land within the proposed new “V” zone in mid-2012;

[Dr Lawrence K.C. Li arrived to join the meeting at this point.]

- (b) in the paper prepared by PlanD (TPB Paper No. 10019) for further consideration of the Pak Sha O OZP by the Board on 13.11.2015, it was disclosed that 14 Small House (Small House) applications within the proposed “V” zone were received by LandsD between 2009 and 2011. However, 10 of the lots were already owned by the developer before mid-2012 and were subdivided in May 2012 and then transferred to various individuals. He doubted why those indigenous villagers could apply for Small House where the land was owned/partially owned by a developer. It would probably end up for profit-making purpose and he had much concern on whether there were alternatives to secure genuine Small House demand;

Alternative to Secure Genuine Demand

- (c) the supply and demand for Small House in Pak Sha O and Pak Sha O Ha Yeung were shown in Table 1 of TPB Paper No. 10141. According to the table, land for Small House within the “V” zones (including “V(1)”) of the two villages was not sufficient to meet the overall demand. Taking the case of Tai Long Wan OZP for reference, addressing Small House demand outside the village was used as a means to preserve the heritage and environment of an area. It was stated in paragraph 8.1.3 of the ES of

the Tai Long Wan OZP No. S/SK-TLW/5 that to safeguard the natural and heritage features and to minimize human disturbance, only the existing village areas were zoned “V” and future demand for Small House would be addressed outside the area;

- (d) in the papers (TPB papers No. 9965 and 10019) submitted to the Board for preliminary and further considerations of the Pak Sha O OZP, PlanD stated that additional land had been reserved in Pak Tam Au to cater for the Small House demand in Pak Sha O. In the Board’s meeting held on 14.4.2015 for consideration of further representations in respect of To Kwa Ping and Pak Tam Au OZP No. S/NE-TKP/1, the IIR of Pak Tam Au agreed to allow cross-village Small House applications from Pak Sha O and said he had already accepted at least five applications. Although the “V” zone of Pak Tam Au was reduced, it could still accommodate 46 Small Houses and Members considered that it had already taken into consideration the need to accommodate cross-village applications from villages falling within other WGGs including those in Pak Sha O where the “V” zone was insufficient to accommodate the outstanding Small House applications. In the meeting for consideration of representations and comments on OZP No. S/NE-TKP/1 on 6.10.2014, Members considered that the reduced “V” zone in Pak Tam Au was reasonable. The designation of the “V” zone for Pak Tam Au was based on the presumption that it would accommodate some of the cross-village demands and thus the “V” zones designated for Pak Sha O area were comparatively small. After satisfying Small House demands of 35 (10 for outstanding demand and 25 for 10 year forecast) from Pak Tam Au, there was still surplus land for cross-village applications. Although the “V” zone in Pak Tam Au could not cater the total Small House demands of 93 from Pak Sha O, it was in line with the incremental approach adopted by PlanD;

Environmental Aspects

- (e) a large “V” zone would generate potential environmental damage as

additional transport supporting facilities would be induced due to the increased demand for car parking spaces. It was common in rural areas that village and visitor cars were simply parked on the footpath along the roads, or parked in spaces created as a result of vegetation clearance and land filling. Village expansion would also trigger additional road widening works or new road. The road works along the existing footpath to Pak Sha O Village would inevitably encroach onto the adjacent woodland (and even the EIS). Such secondary impacts should not be neglected when planning the “V” zone in Pak Sha O;

- (f) in considering a planning application at To Kwa Peng (No. A/DPA/NE-TKP/4) for 16 Small Houses on 22.7.2011, the Board had acted as a gatekeeper for the environment and rejected the application even though PlanD had no objection to the application. The rejection reasons, among others, included that the sites were remote and the applicant had failed to demonstrate that proper access arrangement could be provided, and the proposed development would affect the natural environment and ecology of the area which was surrounded by Country Park. The situation of Pak Sha O was similar to To Kwa Peng as both villages could be accessible by merely a narrow footpath with no proper vehicular access. Any upgrading or widening works of the existing footpath would unavoidably pose adverse ecological and landscape impacts on the adjacent Country Parks; and

- (g) he concluded that there was no justification provided to support genuine Small House demand; land had been reserved in Pak Tam Au for cross-village applications to meet the genuine need; village expansion would lead to additional transport supporting facilities which would cause great disturbance to the adjacent environment and Country Park. As such, he requested the Board to delete the proposed “V” zone in order to prevent undesirable impact to the existing natural environment.

R529 – Ruy Barretto

54. A written submission summarizing Mr Ruy Barretto's presentation was circulated for Members' reference on request of Mr Barretto. He also deposited a copy of the District Court's Verdict (DCCC 25/2015) on a case regarding the 'Transfer of Small House' in Sha Tin, a copy of TPB Paper 9965 attaching a Planning Report on Pak Sha O, and a copy of his previous submission in 2013 in respect of the Pak Sha O DPA to supplement his presentation for Members' reference.

55. With the aid of a visualizer, Mr Barretto made the following main points:

- (a) he had been involved in nature and heritage conservation for more than 40 years. He noted that the rural landscape in the beautiful countryside of Hong Kong had been degrading due to the ineffective planning and enforcement work. It was time for the Board to rectify the problems;
- (b) PlanD had incorrectly treated the excavation works in Pak Sha O in 2012 as agricultural rehabilitation instead of 'Destroy First, Build Later' activities. With the aid of three photographs taken in September 2012, he showed the continued destruction process through bulldozing, the so-called rehabilitation work, and drainage works. According to the Planning Report on Pak Sha O, excavation works with vegetation clearance (not farming) to the north of the Pak Sha O Village cluster was detected in 2012. On 31.10.2012, the Board was directed to prepare a DPA Plan for the area. It was clear that the 'destroy first' activities had triggered the preparation of the DPA Plan.

Abuse of the planning process

- (c) the new "V" zone, which covered a beautiful landscape, was incorporated in the OZP suddenly without adequate justifications. There was no further study to assess if the new "V" zone was suitable or technically feasible for development. It had also by-passed the formal consultation process. Besides, PlanD failed to inform the Board on the transfer

activities of the lots within the new “V” zone;

- (d) the “V” zone facilitated fraud on the Small House Policy as most of the land within the zone had been sold to developers. Records showed that many lots within the “V” zone were purchased by a developer between 2007 to 2012 and the land was then sub-divided into 47 lots and transferred or partially transferred to some villagers. Some portions of the land in strategic location were retained by the developer for the purpose of controlling the whole piece of land. A farmer was employed to farm on the land, which PlanD called it agricultural rehabilitation. Agricultural activities were intended to path the way for future Small House development. The transfer of Small House activities were considered by the Court in DCCC 25/2015 as frauds, which were usually concealed as the applicants for Small House did not genuinely own the lots for the application. The government could not brush aside such transfer of ownerships or development schemes as not relevant to designation of the proposed “V”. In addition, the Court had held that the entirety of actions done for the fraud should be considered. So far, there were 14 Small House grant application within the “V” zone, which could end up in 47 applications for the 47 sub-divided lots. The future Small Houses were not intended for the indigenous villagers and the proposed “V” zone would facilitate the abuse of the Small House Policy instead of meeting the genuine need for Small House demand. The Board had the duty to protect public interests and needed to ensure the genuine need but not applications driven by concealed fraud. As such, a cautious approach should be adopted and the “V” zone should be reduced;

Environment and Ecological Aspects

- (e) as commented by WSD in 2013 relating to the DPA Plan, though they had no objection to the “V” zone, they agreed with the views of EPD that as the area was within the WGG and there was no plan for providing public sewer, the “V” zone should be kept to the absolute minimum. Those comments were now watered out and the government had made

compromise to maximize the “V” zone;

- (f) Hong Kong was subject to the Convention on Biological Diversity and thus had the obligation to follow the international articles and principles where applicable. Pak Sha O was a major ecological area which should be protected. Zoning an area of high ecological diversity to “V” was a breach of the Convention; and
- (g) to sum up, the land within the “V” zone was not suitable for development. It was an abuse of the planning process as the “V” zone had not been assessed adequately, and the OZP failed to protect the valuable ecology of the area. He therefore proposed to delete the “V”.

R518/C3 – Kadoorie Farm and Botanic Garden Corporation

R530 – Gary WJ Ades

R531 – Tony Nip

R536 – Mark Isaac Williams

R538/C4 – Chiu Sein Tuck

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

- (a) Pak Sha O was a Country Park Enclave. Taking the OZPs of some Enclaves as examples, he showed what the Board had done to protect the rural village settings and natural environment in Enclaves. A large “V” zone was proposed for the Pak Lap OZP at the beginning. After noting that many lots were already owned by developers, the size of the “V” zone was largely reduced to include mainly the existing village cluster, the approved Small Houses and outstanding Small House applications. Similarly, the southern portion of the “V” zone of the To Kwa Peng and Pak Tam Au OZP was finally excluded from the zone on similar considerations;

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

The case of Tai Long Wan

- (b) the Tai Long Wan OZP was another good example to illustrate the Board's intention to protect the rural environment. The Tai Long Wan OZP was prepared in 2000/2001 when there were 133 Small House applications and seven of them were already approved. Almost the same as Pak Sha O Village, numerous lots had already been owned by a development company. During consideration of the objections of the Tai Long Wan OZP No. S/SK-TLW/1, PlanD thus recommended to reduce the "V" zones from 7.9 ha to 1.9 ha and to cover only the existing village settlements and approved Small House applications, which excluded most lots owned by the developer. Planning permission would be required for demolition, addition, alteration and/or modification works to an existing building;
- (c) PlanD's proposal on the "V" zone above was based on the following consideration: (i) demand for new Small House should be met outside by cross-village applications; (ii) the building rights and approved applications would be respected; (iii) the scale and character of the villages would be retained and potential threats to the existing landscape quality and heritage would be minimised; (iv) given the inadequate infrastructural provision and difficulties in additional provision, the reduction of "V" zones would be more pragmatic and help avoid unnecessary development expectations;
- (d) the Board, in considering the representations and comments to the Tai Long Wan OZP, decided to propose amendments to the Tai Long Wan OZP by reducing the size of the "V" zone, moving NTEH from Column 1 to Column 2 of the Notes for the "V" zone, deleting 'House (other than NTEH)' under Column 2 of Notes for the "V" zone, and adding a remark to the Notes for the "V" zone to require planning permission for any demolition, addition, alteration and/or modification to an existing building. The Board also agreed to revise the ES of the OZP to spell out clearly that the design of any new Small Houses would need to be in harmony with the

surrounding historical houses and should not affect the integrity of the historical village and their high group value. The stringent control under the “V” zone did not have significant adverse impact on the living of the residents there and the public could continue to enjoy the spectacular natural features;

Issues and Problems of the Pak Sha O OZP

- (e) the proposed “V” zone for Pak Sha O Village on the DPA Plan was reduced to cover mainly the core village clusters during the preliminary consideration of the draft OZP. Upon further consideration, the “V” zone was amended to “V(1)” to incorporate more restrictions, and an additional area to the north of the “V(1)” zone was designated as “V” to meet the Small House demand;

- (f) though there was consensus that the environment and village setting of Pak Sha O should be protected, the proposed “V” zone would destroy the environment and the landscape of the area. The potential environmental problems of the “V” zone included more vegetation clearance and tree felling, water pollution during the construction and operation phases, and disturbance to rare species and their habitats. Those problems had been found in Ko Tong and Tai Tan and would probably occur in Pak Sha O. Another example was the Lam Tsuen Valley which was also within the WGG with an EIS. To protect the water resources from being contaminated, developments would be strictly controlled. However, the construction of STS systems and discharge of sewerage were easily observed in the Lam Tsuen area. He doubted if government departments could actually control wastewater discharging into WGG and EIS. The Water Pollution Control Ordinance was hardly enforceable, as it was very difficult to catch the culprits red-handed and collect evidence on the spot. He wondered how the government could effectively control potential wastewater discharge in Pak Sha O;

- (g) Small House of 3 storeys and site area of 65m² each was always permitted in the “V” zone. There would be potential visual and landscape impacts. Without the imposition of other restrictions, it would be difficult to request landscape submission nor low-profile buildings, and there would also be potential land filling activities. The construction of Small Houses had generated serious environmental pollution to the rural areas and land filling within riparian zone close to “V” in WGG was observed. For the case of Pak Sha O, the access path being the main passage into the area would probably be surrounded by Small Houses if the “V” zone was retained;
- (h) having noted that the approval rate of Small House applications in the “AGR” zone was more than 60%, he raised doubts on the intention of zoning a small piece of land as “AGR” on the OZP, which was within the ‘VE’;
- (i) in the further consideration of the draft Pak Sha O OZP, whilst the Board had intended to protect Pak Sha O and had suggested to protect the old buildings by planting more trees and requiring future Small Houses to follow the existing deposition of houses, it was noted that the government departments could only liaise with the owner for planting trees on a good will basis. He wondered how such liaison could work. Even the SKNRC, when consulting the draft OZP after its gazettal, opined that it would be difficult to follow through the Board’s advice on planting trees in between the south-western corner of the “V” zone and the existing village since most of the land concerned were under private ownership;
- (j) given the outstanding applications and acute shortage of land, PlanD argued that a new “V” zone was proposed to balance the needs between development and conservation. He doubted whether there was actually an acute shortage of land and the Small House was for meeting the genuine need of the indigenous villagers. He noted that there were a number of ruins in Pak Sha O having building lot status and there were many luxury residential developments in the market which were in fact

from Small Houses. The proposed “V” zone would encourage the selling of the Small House rights;

- (k) he further said that the example of Tai Long Wan could shed light on providing a statutory framework for control on Small House development. On the Tai Long Wan OZP, the Board had decided to protect the area by imposing restrictions on the “V” zone so as to ensure any new Small Houses would be in harmony with the surrounding historical houses and should not affect the integrity of the historical villages. So far, no planning application for Small Houses within the said “V” zone had been approved by the Board. Whereas, in other “V” zones where planning application was not required for Small Houses, the Board was not able to ensure the visual harmony, disposition of houses, nor planting of more trees for the development; and
- (l) to sum up, while the Board and PlanD intended to protect the environment and village setting of Pak Sha O, it might not be achievable through the current “V” zoning in view of the damages being observed in the existing “V” zones on other OZPs. The situation would be worsened as planning permission for Small House was not required. Besides, it would not be more receptive to the local villagers as many lots were owned by a developer. There was no shortage of land for meeting Small House demand as land had been reserved in Pak Tam Au for cross-village application and there were still land available in the village. He requested the Board to adopt a pragmatic approach in planning for a better environment in Pak Sha O.

57. As the presentations from the representers, commenters and their representatives were completed, the Chairman invited questions from Members.

58. A Member asked the following questions: (i) whether the land transaction, ownership transfer and lot subdivision cases in Pak Sha O, as quoted by some representers, had been taken into account when drawing up the “V” zone on the OZP; (ii) whether the implications of the recent court case, in which some indigenous villagers in Sha Tin were

convicted for transfer of Small House right, would be considered by the Government in the preparation of the OZP; and (iii) whether the stringent control on Small House development set by the Board for Tai Long Wan could be applied to controlling Small House development in Pak Sha O.

59. In response, Mr C.K. Soh, DPO/STN, referred to a plan on the PowerPoint which showed the land status and the locations of the sites that were subject to outstanding applications for Small House grant in Pak Sha O, and said that the change in land ownership was all along not a planning consideration in the designation of land use zonings on the OZP. While the information presented by some representers might lead people to think that there were cases of illegal transfer of Small House right, LandsD had advised that the Small House applicants would be required to expressly warrant that they had never made any arrangements to transfer their rights to develop Small House or their eligibility to apply for Small House grant. If the applicants obtained government approval by deception through false representation or fraud, criminal prosecution action could be instigated against them. Referring to another plan which showed the distribution of private land owned by companies and individuals in Pak Sha O, Mr Soh said that the sites which were subject to outstanding Small House applications were located not only within the area currently zoned as “V” and many of such sites were not owned by companies. Although people might base on their observation of changes in land ownership to suspect that there were deceptive activities relating to Small House development in the village, PlanD was not in the position to ascertain any such allegations and it was more appropriate for the relevant enforcement authorities to initiate the necessary investigation.

60. Mr Soh continued to say that as the primary objective of the OZP was to conserve the natural landscape of Pak Sha O, over 90% of the area had been designated with conservation zonings. Meanwhile, suitable areas were delineated on the OZP to meet the Small House demand of the villagers and there were already measures to preserve the existing vernacular Hakka village setting of the area. As regards the planning in Tai Long Wan, the general planning intention of the Tai Long Wan OZP was to conserve the scenic natural environment and the historic value of the old village houses with traditional architecture and layout in that area, which was similar to the planning intention of the Pak Sha O OZP to preserve the existing village setting. However, as Tai Long Wan was also a site of high archaeological interest, the need to conserve the high archaeological value of the area was an

additional planning consideration. The “V” zone currently designated on the Pak Sha O OZP could accommodate about 28 Small Houses, which could meet only part of the outstanding Small House demand of the villagers. Even though the “V” zone in Pak Tam Au could accommodate some of Pak Sha O’s Small House demand, the number of surplus sites available in Pak Tam Au was only about 10.

61. The Chairman asked if there were any reasons why the requirement for planning permission for Small House development in the “V” zone of Tai Long Wan (i.e. requiring the new village houses to be in harmony with the historical houses and not to affect the integrity of the existing village setting) was not similarly imposed in the “V” zone of Pak Sha O. In response, Mr C.K. Soh said that PlanD had thoroughly considered how the “V” zone for Pak Sha O should be delineated. On the first DPA Plan No. DPA/NE-PSO/1, a larger “V” zone covering the current “V(1)” zone of the OZP and its immediate outer area had been delineated. The Board, after considering the representations to the draft DPA Plan, considered that there should be more protection to the existing village setting, and therefore proposed amendments to the DPA Plan requiring planning permission for new NTEH and any demolition, modification or redevelopment of an existing building within the “V” zone.

62. Mr Soh continued to explain that when preparing the draft OZP, PlanD considered that if the original boundary of the “V” zone on the DPA Plan was maintained, it might convey a wrong message to the villagers that new Small House developments, which were incongruous with the historic village setting, could be allowed adjacent to the existing village. Notwithstanding that the Board could impose design and landscaping requirements through the planning application mechanism, the outcome would still be the construction of a number of 3-storey Small Houses with 65m² built-over-area in juxtaposition with the old village. This was not the best way of preserving the vernacular Hakka village setting. As such, in the draft OZP No. S/NE-PSO/B presented to the Board for preliminary consideration, only the existing village area was zoned “V”, within which any demolition, modification or redevelopment of an existing building would require planning permission, and the agricultural land to the north of the village was zoned “AGR”. It was expected that if the villagers intended to build new Small House, they would propose their new houses in the “AGR” zone and apply for planning permission. However, the “AGR” zoning could not give a clear indication to the villagers on what areas would be suitable for new Small House development and what areas should be avoided. Therefore, in the revised draft OZP No.

S/NE-PSO/C presented to the Board for further consideration, a “V” zone was delineated (and the original “V” zone covering the existing village area was renamed as “V(1)”). The “V” zone, with a 20m buffer from the existing streams and some distance from the old village, could provide certainty to the villagers on where the new Small Houses should suitably be built.

63. Mr Soh supplemented that although the IIR of Pak Sha O had also requested that some vacant building lots to the immediate south of the current “V(1)” zone be included within the “V(1)” zone, his request was not acceded to in the preparation of the OZP as most of those building lots did not have the entitlement to achieve the intensity of a typical modern Small House. If the villagers wanted to build new houses on those building lots which fell within the “GB” zone, they could apply to the Board for planning permission but had to demonstrate to the Board how their proposed houses would be compatible with the old village.

64. In response to the enquiry from a Member on the demand and supply situations of Small House in Pak Sha O, Pak Sha O Ha Yeung and Pak Tam Au, Mr C.K. Soh said that the total outstanding Small House demand in Pak Sha O and Pak Sha O Ha Yeung was 44 and there were about 33 sites available for Small House development. In Pak Tam Au, the outstanding Small House demand was 10 while the total number of sites available for Small House development was about 46. Although the IIR of Pak Tam Au had indicated that he would not object to villagers from other villages within the WGG in Sai Kung North to apply for Small House development in Pak Tam Au through cross-village application, he also advised that the Small House demand forecast of Pak Tam Au was about 25. As such, there might only be about 10 surplus Small House sites available in Pak Tam Au to cater for the cross-village applications from other villages, and the figure was similar to the number of Small House sites in deficient in Pak Sha O and Pak Sha O Ha Yeung to meet their total outstanding demand.

65. In response to the same Member’s question on whether appraisals on the historic and cultural values of Pak Sha O had been conducted, Mr C.K. Soh said that AMO had conducted an appraisal on the historic value of the Ho’s Residence and Ancestral Hall, including assessment on the ambience of the existing Hakka village and the surrounding environment, and the appraisal was available on AMO’s website for public inspection.

66. By referring to the land status plan previously shown by Mr C.K. Soh, the same Member asked why the footprint of some ruined structures to the immediate south of the “V(1)” zone did not tally with the private lot boundaries and whether the villagers owning those private lots needed to purchase the government land covered by the ruins if they were allowed to build Small House in that area. In response, Mr C.K. Soh said that the discrepancy between the lot boundaries and the physical footprints might be due to the inaccurate land survey in the past. As regards the development of new Small Houses on those lots, since the area was currently zoned “GB”, the villagers had to apply for planning permission from the Board. However, as there was a general presumption against development in the “GB” zone, the land owners should provide strong justifications to the Board to support their applications, which might include their claims for building entitlement. In general, the Board would only permit development on such lot up to its building entitlement, which normally would not be as large as the parameters of a typical 3-storey modern Small House with 65m² built-over-area.

67. Noting that surrounding areas of Pak Sha O village were relatively natural except the rehabilitation of some land to the north for agricultural use and that the currently designated “V” zone on the OZP would not be able to meet all the outstanding Small House demand for Pak Sha O and Pak Sha O Ha Yeung, a Member asked if it was possible to accommodate more Small House demand of Pak Sha O and Pak Sha O Ha Yeung in Pak Tam Au, with a view to better conserving the natural landscape of Pak Sha O. In response, Mr C.K. Soh said that among the outstanding Small House applications in Pak Sha O, Pak Sha O Ha Yeung and Pak Tam Au, certain numbers were cross-village applications from other remote villages such as Nam Shan Tung and Cheung Sheung. The area and boundary of the “V” zone in Pak Tam Au had been thoroughly discussed by the Board previously and the current “V” zone was considered appropriate. It might not be possible therefore to expand the “V” zone in Pak Tam Au at the moment. During the preparation of the Pak Sha O OZP, PlanD had explained to the villagers that land suitable for “V” zone had already been designated on the OZP as far as possible even though the area of the “V” could not accommodate all their outstanding Small House demand. The villagers might need to find sites in other villages for building their Small Houses or apply to the Board for planning permission if they intended to build their Small Houses outside the “V” zone on the OZP.

68. Noting that the transfer of land ownership was not a planning consideration in the designation of “V” zone, the same Member asked if any government departments would be responsible for investigating the suspected cases of deceptive transfer of Small House right and if the convicted offence in relation to deceptive transfer of Small House right should be taken into consideration in the preparation of the OZP. In response, the Chairman said that in the recent court case quoted by the representers, it was the Independent Commission Against Corruption which instigated investigation and charged some indigenous villagers for defrauding the Government. While some representers had raised that some land transaction cases in Pak Sha O were suspicious, it might not be appropriate to ask DPO to comment on the legitimacy of those transactions and to take them into account in the planning process.

[Mr David Y.T. Lui left the meeting at this point.]

69. In response to a Member’s questions on whether there were agricultural activities in the area currently zoned “AGR” and why the area was zoned “AGR”, Mr C.K. Soh said that the current “AGR” zone on the OZP was part of a larger “AGR” zone proposed on the draft OZP No. S/NE-PSO/B. Subsequently on the revised draft OZP No. S/NE-PSO/C, land considered suitable for Small House development in that large “AGR” zone was rezoned to “V” with its peripheral areas designated as “GB”, leaving the subject area as “AGR”. Before the designation of the subject area as “AGR”, PlanD had conducted site inspections which revealed that the soil in the area had been ploughed. AFCD also advised that the potential of the subject area for agricultural rehabilitation was similar to that of the cultivated land to its west, though no agricultural activities were currently being undertaken in the subject area.

70. In response to the same Member’s question on why the western part of the current “V” zone was not zoned “AGR” and the subject “AGR” zone be zoned “V”, Mr C.K. Soh said that such a proposal had been considered. Taking into account the need to provide a 20m buffer from the existing streams, only some small area within the current “AGR” would be considered suitable to be rezoned to “V”. The designation of “AGR” zone on the OZP was not only to reflect current agricultural activities, but also to include those areas which were considered to have good potential for agricultural rehabilitation by AFCD.

71. Noting from the presentation of a representer that a government document entitled “Drainage and Health Requirement for Village Type Houses” might have stated that percolation test was not necessary for construction of STS systems, the same Member asked if such information was correct. In response, Mr C.K. Soh said that as Pak Sha O was located within the upper indirect WGG, WSD and EPD considered that the use of STS systems as a means for sewage treatment and disposal was not acceptable. While it was queried by a representer why the ES of the OZP stated that the use of STS systems in the area was only ‘in general’ unacceptable, it should be noted that the crux of the matter was not on whether STS systems could be used, but on whether there was demonstrably effective means, such as proper wastewater treatment plant, to ensure that the effluent water quality was acceptable to the concerned government departments. If STS systems for Small House were proposed in an area where the ground conditions might not allow effective treatment of sewage, EPD might request a percolation test to be carried out by the project proponent to demonstrate that the site was capable of effective sewage treatment. The requirement for percolation test for the proposed STS systems would be considered by LandsD and EPD on an individual case basis when processing Small House applications.

72. The Chairman asked Mr Nip Hin Ming Tony (R531) whether he considered the STS system an effective means for treatment of sewage in Pak Sha O or not. In response, Mr Nip said that his major concern was the water pollution impact of Small House development. STS system was all along regarded by EPD and the Drainage Services Department (DSD) as a source of water pollution when they justified the need for provision of public sewers in rural areas. The ground condition of Pak Sha O was generally wet as the area used to be paddy fields in the 1960s and was largely covered by freshwater marsh and the riparian zones of the natural streams. As such, the use of STS systems in Pak Sha O was not suitable technically. Although it was stated in the ES of the OZP that the use of STS systems for sewage treatment in Pak Sha O was generally unacceptable as the area was located within the upper indirect WGG, he could still observe the use of STS systems by villagers in Lam Tsuen which was also located within the upper indirect WGG. He wished to point out that the relevant government departments were loose in the control of sewage treatment in areas within the WGGs.

73. In response to the Chairman, Mr David Newbery (representative of R523) supplemented that the main document that was used by the Government for regulating the

construction of STS systems in Hong Kong was EPD's ProPECC 5/93 on "Drainage Plans subject to Comment by EPD" which set out the design criteria for STS systems. In a STS system, the sewage was discharged into a soakaway pit which was a pit of rubble. The purification of the soakaway pit took place as the liquid sewage percolated through the soil and the aerobic bacteria in the soil ate up the dirt of the sewage. The further the sewage could percolate in the soil, the cleaner the sewage would become. ProPECC 5/93 had specified minimum setback distances from the STS systems for various environmentally sensitive water bodies to ensure that the seepage from the STS systems would not pollute the water sources. For instance, the minimum setback distance for a stream supplying drinking water was 30m, that for a well was 50m, and that for a beach was 30m to 100m depending on circumstances. However, those setback distances were set based on perfect soil conditions. If the soil conditions were not perfect, EPD would require the carrying out of percolation test. The percolation test involved the digging of a hole in the soil and filling up the hole with water to see how fast the water would flow away from the hole completely. In order for sewage to get proper purification, the sewage had to be soaked into the soil and flow for a certain rate in the soil. If the percolation test was conducted in a water-logged ground, the water filled in the hole would not percolate or flow away at all. Therefore, if a STS system was used in a water-logged ground, the sewage would stay in the pit and only flow away very slowly. As there was no air in the water-logged soil, there was no aerobic bacteria to purify the sewage but the breeding of anaerobic bacteria which could lead to serious pollution and infectious diseases. Unfortunately, it was noted that EPD and LandsD had reached an internal agreement in 2009, under which LandsD would only refer to ProPECC 5/93 when the proposed STS system was within 15m to 30m of a stream, and if the proposed STS system was beyond 30m from a stream, percolation test would not be required and the less restrictive specifications would be followed.

74. A Member asked if there were any measures to address the potential sewage impacts arising from the Small House development in the "V" zone on the surrounding natural environment. In response, Mr C.K. Soh said that the existence of villages in WGGs was not uncommon in the rural areas. For protection of the quality of water sources, WSD and DSD had endeavoured to provide public sewers for all the villages that fell within WGGs by phases in recent years. However, it was possible that some older village houses within WGGs might still use their original STS systems, which were constructed before the availability of public sewers, for sewage treatment. For the new Small House to be built

within villages that were provided with public sewers, they needed to be connected to the public sewers and could not use STS systems for sewage treatment. There was clear guidelines adopted by LandsD for such an arrangement. For the current “V” zone in Pak Sha O which was located within WGG, EPD and WSD had indicated clearly that the use of STS systems for sewage treatment was not acceptable and other effective means should be used.

75. Noting that Mr Carey Geoffrey (C32) had mentioned that a previously well-preserved house in Pak Sha O village had deteriorated after it was acquired by a new owner, the same Member enquired the current condition of the house. In response, Mr C.K. Soh said that the house mentioned by Mr Geoffrey within the “V(1)” zone was on private land. According to the Notes of the OZP, planning permission was required for any demolition, modification or redevelopment of an existing building within the “V(1)” zone. However, if the house owner just left the house idle and did not provide proper maintenance to the house, the current control of the OZP could not help.

76. In response to the same Member’s question on whether the Convention on Biological Diversity had been addressed in the OZP, Mr C.K. Soh said that AFCD had developed action plans for Hong Kong under the Convention on Biological Diversity. AFCD had previously advised that the designation of suitable areas as development zones and conservation zones in the OZPs prepared for the Country Park Enclaves was not against the Convention.

77. In response to a Member’s questions on whether the existing access to Pak Sha O would be upgraded when new Small Houses were allowed in the “V” zone, Mr C.K. Soh said that there was currently no direct vehicular access serving Pak Sha O village. People could arrive by vehicles to Hoi Ha Road only and had to walk along a village path branching off from Hoi Ha Road to Pak Sha O village. The “V” zone in Pak Sha O would accommodate about 28 new houses. There was no plan to provide a vehicular access to the “V” zone. The future residents in the “V” zone had to follow the current mode of access.

78. Noting that some representers had mentioned that ‘destroy first, build later’ activities had occurred in Pak Sha O before, leading to the preparation of the DPA Plan, a Member asked if the said allegation could be established and whether the rehabilitation of

land in Pak Sha O for agricultural use was regarded as ‘destroy first, build later’ activities. In response, Mr C.K. Soh said that vegetation clearance in an area north of Pak Sha O village was detected a few years ago. PlanD had accelerated the preparation of the Pak Sha O DPA Plan as a stopgap measure to prevent any unauthorised activities. However, after the vegetation clearance, the area was found being used for agricultural activities until now and no other typical destroy activities were detected. The rehabilitation of land for agricultural use in Pak Sha O would not be interpreted as a ‘destroy’ action. While some people might suggest that the intention behind the agricultural rehabilitation was to lead the Government to zone the area as “V”, it should be noted that the drawing up of the “V” zone was based on a number of planning considerations including the actual site conditions and the suitability of the area for development. Land ownership was not a major planning consideration. Indeed, the sites of the 37 outstanding Small House applications in Pak Sha O all scattered around and only some of them were covered by the current “V” zone.

79. A Member asked if the rezoning of the current “V” zone to “V(1)” a viable option for imposing more stringent control on the future developments on the current “V” zone. In response, Mr C.K. Soh said that if the “V” zone was rezoned to “V(1)”, any future Small House development within the zone would require planning permission. Such a requirement would inevitably increase the cost of the villagers in making the planning applications.

80. In response to the Chairman, Mr Ruy Barretto (R529) said that the court had held that the entirety of the actions should be considered for the fraud. In the subject case, the landlord first subdivided his land and transferred the ownership of the land to 14 applicants to submit Small House grant applications to LandsD. The land was then cleared, excavated, formed and drained off without government permission, and under the guise of farming. The works being done were typical development-type works, which were done slowly with the hope that no one would be aware of the intention behind. After the destruction, the DPA Plan was prepared immediately. It was obvious that the landowner had done a series of actions to pave the way for the Government to zone his land for development but PlanD denied and did not regard such actions as ‘destroy first, build later’ actions.

81. In response to the Chairman, Mr Nip Hin Ming Tony (R531) supplemented that water pollution in village areas was mainly from two sources, namely the seepage from STS systems and the discharge of wastewater from illegally connected drainage pipes. Village

houses built after 1984 were generally required to use STS systems for discharge of wastewater and sewage treatment. However, as the capacity of STS systems might not be able to treat all the domestic wastewater, many villagers resorted to using their self-connected drain pipes to discharge domestic wastewater. Such kind of illegal drainage connection was common in rural villages, including those within WGGs, but it was hard to prosecute people for illegal drainage connection as the proof of evidence was difficult. It was also useless to file complaints to the Government on illegal discharge of wastewater. While STS systems would unlikely be allowed for use in Pak Sha O, he wondered if the provision of a sewage treatment plant for the area, which necessitated regular desludging and maintenance, was a viable solution and whether the future residents would still make similar illegal drainage connection and discharge their domestic wastewater to the nearby streams.

82. In response to the Chairman, Mr Christophe Barthelemy (R528) said that he drew Member's attention that the land where there was outstanding Small House applications in Pak Sha O were controlled by developers. The Small House demand forecast figure of 49 houses was unreliable and had not been verified. When the IIR of Pak Sha O was asked by a Member in the Group A hearing session on the number of emigrant villagers who would return to Pak Sha O, he was unable to provide a figure. DPO/STN was also incorrect in saying that there were farming activities by villagers in Pak Sha O as the farming was not done by villagers. It was the people employed by Xinhua Bookstore, which was the major landowner of Pak Sha O, who destroyed the land and farmed in the area. Moreover, there were no farming activities in the land zoned "AGR". The land had just been destroyed and left idle since August 2015. DPO/STN was misleading in saying that the future residents in the "V" zone would use the existing village path for access. With the planning of more than nine Small Houses in the "V" zone, it was a government requirement for provision of emergency vehicular access.

83. In response to the Chairman, Ms Ng Chun Wing, Miffy (R1331) said that the public had never seen the land status plan marked with the sites of the outstanding Small House applications as shown by DPO/STN earlier at the meeting, but such information was important to the public. According to her initial vetting, she found that apart from the 14 outstanding Small House applications which were supposed to be manipulated by a developer, another eight applications also fell within the land once owned by the developer. She reminded Members that the 14 applicants for Small Houses originally filed their applications

on other sites outside Pak Sha O in 2009 to 2011. Then in 2012, they purchased those sites in Pak Sha O from the developer and transferred their Small House applications to Pak Sha O. From the plan, the majority of the land in the north-eastern part of the “V” zone outside the ‘VE’ was owned by the developer. The developer might follow the previous practice by transferring the land ownership to the villagers and arranging villagers to apply for Small Houses in that part of the “V” zone. It should also be noted that the 14 said outstanding Small House applications were still being processed and not yet been approved by LandsD. She wondered why PlanD would take those 14 outstanding Small House applications into account and designate the “V” zoning for the sites. While only the rough locations of the outstanding Small House applications were presented by DPO/STN on the plan, she noted that the boundaries of the sites subject to outstanding Small House applications were clearly shown in the TPB Papers for consideration of planning applications in the Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung DPA Plan.

84. In response to the enquiry from a Member, Mr C.K. Soh showed Members the location of the lots (i.e. Lots 825 S.A and 825 S.B in D.D. 290) owned by Xinhua Bookstore Xian Jiang Group Ltd. (R3) at Pak Sha O Ha Yeung, and said that as the lots were covered by woodland on the slope, PlanD did not support R3’s proposal of rezoning the lots from “GB” to “V”. If the land owner wished to develop the lots, he could apply for planning permission from the Board.

85. A Member asked if it was possible to shift the “V” zone eastwards from the current location to the area near the “Government, Institution or Community” zone covering the public toilet. In response, Mr C.K. Soh said that such a proposal was also raised by the IIR of Pak Sha O as that area was nearer Hoi Ha Road. However, as the area was outside ‘VE’, the proposal was not considered feasible from the land administration point of view.

86. A Member asked if the current residents in Pak Sha O village were all not indigenous villagers, as mentioned by some representers, and hence the applicants of the aforesaid 14 Small House applications were not currently residing in Pak Sha O. In response, Mr C.K. Soh said that there had not been a formal survey on whether the current residents in Pak Sha O village were indigenous villagers or not. From his observation, the current residents were not indigenous villagers although the IIR of Pak Sha O would return to the village occasionally. For the 37 outstanding Small House applications in Pak Sha O, 35

were applications submitted by indigenous villagers of Pak Sha O.

87. In response to the same Member's question on whether the area south of the existing village and north of Immaculate Heart of Mary Chapel was suitable for village type development, Mr C.K. Soh said that such a proposal had also been made by some representers. As the area south of the village was on a higher terrain, building of Small Houses in that area would affect the landscape and existing village setting, and was considered not appropriate.

88. As the representers/commenters or their representatives had finished their presentations and Members had no further question to raise, the Chairman said that the hearing procedures for Group B had been completed. The Board would deliberate on the representations in the absence of all representers/commenters or their representatives and would inform them of the Board's decision in due course. The Chairman thanked them and the government representatives for attending the hearing. They all left the meeting at this point.

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

Deliberation Session

89. As the hearing had been conducted in two groups and the views presented by the representers in Group A were largely different from those presented by the green groups and others in Group B, Members agreed that Dr Lawrence K.C. Li and Mr Edwin W.K. Chan, who only attended the part of the Group B hearing in the afternoon, and Professor S.C. Wong, who had left the meeting temporarily for some time in the morning, should be allowed to stay in the meeting but should refrain from participating in the discussion.

Group A Representations

90. The Chairman recapitulated that the Group A representers mainly considered that the "V" zone in Pak Sha O was inadequate and there was no "V" zone in Pak Sha O Ha Yeung. The representers mainly proposed to rezone land from "GB" to "V".

91. A Member considered that the current boundary of the “V(1)” zone in Pak Sha O should be maintained in order to preserve the existing vernacular Hakka village setting. The current arrangement of zoning vegetated areas surrounding the village cluster as “GB” to screen off new developments was also appropriate.

92. A Member considered that the current “V” zone in Pak Sha O should not be enlarged to meet the villagers’ request as the size of the “V” zone was decided taking into account the Small House demand and supply situation and the incremental approach all along adopted by the Board. The Member also noted that most of the Small House demand in Pak Sha O was from villagers residing overseas, who might have already settled down in their current place and hence the actual demand for residing in Pak Sha O should not be keen.

93. The Chairman summarised Members’ views on the Group A representations that the boundary of the “V(1)” zone in Pak Sha O should not be altered and the “V” zone should not be enlarged to meet the representations. Members agreed.

Group B Representations

94. The Chairman recapitulated that in respect of the “V” zone in Pak Sha O, the Group B representers had raised different proposals including the deletion of the entire “V” zone, reduction of the size of the “V” zone, rezoning the “V” zone to “V(1)”, or adopting the current control mechanism of the Tai Long Wan OZP which required planning permission for all Small House developments in the “V” zone and that the design of the proposed Small Houses should meet certain criteria to ensure compatibility with the existing village houses. Some Members had also enquired if the location of the “V” zone could be shifted.

95. A Member considered that the existing Hakka village in Pak Sha O should be preserved for its high historical and cultural values. The Member noted that the area had no direct vehicular access and there was no sewage and drainage systems in the area. For any large-scale development in the area, the provision of electricity, water supply and drainage services was necessary. Without the provision of road access and basic infrastructure, the designation of a “V” zone in the area for development appeared impractical. The Member also considered that further development of the village should follow its central axis which extended from the lowland in the north towards the chapel in the south at a higher level. As

such, it was reasonable to expand the “V(1)” zone to the area to its south to allow further development of the village as that area was previously erected with buildings but had become ruins. However, the new village houses in that area should not be of the scale of the typical 3-storey Small Houses which were incompatible with the existing old village houses. With the extension of the “V(1)” zone, the size of current “V” zone could be reduced accordingly. Besides, the new Small Houses in the “V” zone should be compatible in architectural style as the old village houses in the “V(1)” zone. Noting that the outstanding Small House demand in Pak Sha O could not be met even with the size of the current “V” zone unchanged, the Member suggested to allow villagers of Pak Sha O to apply for cross-village Small House applications in other “V” zones which were located closer to the new town area, which had better infrastructure support.

96. At the request of the Chairman, the Secretary said that the Tai Long Wan OZP and the subject Pak Sha O OZP were the only two OZPs which required planning permission for Small House development in the “V” zone. More stringent control on Small House development was required by the Board in Tai Long Wan as the area possessed high historical and archeological values. Since the imposition of such control, no planning application for Small House development had been approved in Tai Long Wan as the criteria requiring the new village houses to be in harmony with the historical houses and not affecting the integrity of the existing village setting could not be met in the applications. Compared with Tai Long Wan, the existing village setting in Pak Sha O was even more intact. Therefore, planning permission was required for all new Small Houses in the “V” zone of Pak Sha O when the DPA Plan was prepared. Since the exhibition of the DPA Plan, no planning application for Small House development in Pak Sha O had been approved. When the OZP was prepared to replace the DPA Plan, the Board agreed that a smaller “V” zone (i.e. the current “V(1)” zone) covering only all the existing village houses should be designated to preserve the village setting, and that any demolition, modification or rebuilding of the existing village house should require planning permission. Separately, an area considered suitable for new Small House development near the existing village was identified to cater for the villagers’ Small House demand. The Chairman supplemented that the requirement for planning permission for Small House development in the “V” zone should only be considered in exceptional circumstances that warranted more stringent control, as it was impractical for the Board to consider all applications for Small House development in Hong Kong.

97. A Member said that while the designation of the “V(1)” zone in Pak Sha O was to protect the existing buildings with historical and architectural merits in the village, the designation of the “V” zone was to allow new Small House developments meeting the needs of the villagers. As the built form of the new Small Houses would not be compatible with that of the old village houses, it was a pragmatic and balanced approach to designate the “V” at another location to accommodate the new Small Houses. The developments on the new “V” zone should not create adverse impacts on the ambience and setting of the existing village covered by the “V(1)” zone, otherwise an alternative location for the “V” zone should be considered.

98. Another Member concurred with the Member’s views and said that the current arrangement of having a “V(1)” zone and a separate “V” zone nearby was a good balance for preserving the existing village and catering for the Small House demand of the villagers. Besides, the “V” zone was reasonably buffered from the “V(1)” zone by the woodland in-between and the 20m setback distance. The Member considered that the demand for Small House in Pak Sha O did exist as there was a considerable number of outstanding Small House applications submitted by the local villagers. While some representers had pointed out that the Small House demand in Pak Sha O was fake, the Board was not in a position to judge the validity of such allegation. Any fraud cases should be dealt with by the law enforcement agent. As regards the proposal of shifting the “V” zone eastwards, the Member said that, if pursued, the proposal might become a precedent case for a “V” zone not overlapping with the ‘VE’. The Chairman supplemented that the designation of a “V” zone totally outside a ‘VE’ was not in line with the current policy.

99. A Member agreed that without sufficient evidence, it was difficult for the Board to judge if the transfer of Small House right in Pak Sha O alleged by some representers was valid, and considered that the Board should base on relevant planning considerations in designating the “V” zone. While the need for preserving the existing vernacular Hakka village setting in Pak Sha O was indisputable, the indigenous villagers’ right and demand for Small House development should be respected. The Member believed that those indigenous villagers of Pak Sha O who would return to the village to build new Small Houses would equally recognise the need to preserve the setting of their old village and would not mind to have the design and style of their new Small Houses be compatible with the existing Hakka village setting. Noting that the “V” zone was actually not far away from the “V(1)” zone,

consideration might be given to rezoning the current “V” zone to “V(1)” so that planning permission would be required for new Small House development and the Board could have control on new Small House developments. If the Board agreed that new Small House development in Pak Sha O should require planning permission, the criteria for approving the applications should be set out in the OZP as in the case of Tai Long Wan, but what would be the appropriate criteria could be further considered. The Member also considered that there was no need to adjust the boundary of the current “V” zone as it was drawn up based on a number of planning considerations and its area could only meet part of the outstanding Small House demand of Pak Sha O.

[Mr Stephen H.B. Yau and Mr K.K. Cheung left the meeting at this point.]

100. Noting a Member’s concern that there might not be strong justifications to require planning permission for the “V” zone, a Member suggested that the “V” zone could merge with the current “V(1)” zone so that the whole area would become more integral.

101. A Member remarked that the boundary of the current “V” zone was drawn based mainly on the alignment of two existing streams and the provision of buffer areas from the streams. As such, the north-eastern part of the “V” zone did not accord with the ‘VE’ boundary. If the primary objective of the OZP was to conserve the ambience of the Hakka village of Pak Sha O, the Board might consider how the appearance of the future developments in the eastern part of the “V” zone could be better controlled, noting that it was the entry point to Pak Sha O. The Member suggested rezoning only the eastern part of the current “V” zone to “V(1)” for better controlling the visual appearance of the new developments in that area and retaining other parts of the current “V” zone.

102. A Member considered that the current “V(1)” and “V” zones should not be merged as the two zones were to delineate the old and new village areas respectively. If the two zones were merged, new Small Houses might be built close to the existing village and affect the village setting. There could be several options in controlling the new Small House developments, including maintaining the status quo where new Small Houses would be permitted as of right in the “V” zone; or rezoning the current “V” zone to “V(1)” so that new Small Houses could be controlled to make sure that they would be visually compatible with the old Hakka village houses; or applying the Tai Long Wan approach such that the new

Small Houses would require planning permission and they had to be in harmony with the existing village setting according to the principles set out in the OZP. As regards the boundary of the current “V” zone, the Member opined that the “V” zone should not include areas outside the ‘VE’.

103. In response to the Member’s views on the boundary of the “V” zone, Mr K.K. Ling, Director of Planning, said that the boundary of the ‘VE’ was drawn up based on a distance of 300 feet measured from the last village house. For the boundary of the “V” zone, it was determined after thorough consideration of various planning considerations including actual site conditions. As some areas within a ‘VE’ might not be suitable for Small House development, such as woodland and slope, and they would not be included in the “V” zone. On the other hand, some areas adjoining the ‘VE’ might be considered suitable for Small House development, such as the north-eastern part of the current “V” zone, and they might be included in the “V” zone. There had been previous cases where the “V” zones had included areas outside the ‘VE’.

104. A Member considered that for conserving the ambience of the existing village, the eastern part of the current “V” zone should not be zoned “V” as it was the entry point to the old village area. As the “V(1)” zone covering the old village and the “V” zone covering the new village area were basically taken as two entities, it was not necessary to require the new Small Houses in the “V” zone to be of the same architectural style as the old village houses. New Small Houses following the typical built-form of 3 storeys and 65m² built-over-area could be allowed in the “V” zone, provided that the basic infrastructure would be in place and the new houses would be in harmony with the existing village setting. The Member also reiterated the previous proposal of expanding the “V(1)” zone southwards to cover the ruins so as to create a ‘living village’ for the revitalisation and further growth of the old village. For the new houses in the expanded “V(1)” zone to be compatible with the existing village houses, the Member opined that they should be subject to more restrictive control on building height and architectural design.

105. In response to the Member’s proposal of expanding the “V(1)” zone southwards, Mr K.K. Ling said that the area concerned was a gentle slope currently covered with mature trees with large tree crowns. Those mature trees surrounding the existing village cluster had contributed greatly to the preservation of the integrity of the village. The ruins in the area

were mainly pigsty. If the authenticity of the old village cluster was to be preserved, it might not be appropriate to fell those trees to allow for new buildings in the village. A Member concurred with Mr Ling's views and considered that the boundary of the current "V(1)" zone should not be changed. If the land owners of the ruins wanted to develop their lots which fell within the "GB" zone, they could apply for planning permission from the Board.

106. In response to a Member's question on whether planning application for construction of road access to the "V" zone would be considered by the Board, the Chairman said that the submission of any planning application should follow the provisions of the OZP. However, as DPO/STN had mentioned that there was no plan to provide direct vehicular access to the area, the possibility of approving any such proposal should be slim.

[Mr Alex T.H. Lai left the meeting at this point.]

107. At this point, the Chairman noted that Members generally considered that the boundary of the current "V(1)" zone in Pak Sha O needed not be revised. Members agreed. The meeting then focused on discussing whether changes to the boundary of the "V" zone and the development control under the "V" zone would be necessary.

108. A Member considered that the northern and eastern boundaries of the "V" zone, which followed the alignment of the exiting streams, were rational. As the current "V" zone was unable to meet even the outstanding Small House demand, it should not be reduced. Besides, as the proposed new village area had already been segregated from the old village area, requiring the design of the new Small Houses in the "V" zone to be congruent with the old village houses in the "V(1)" zone was not necessary. Two other Members shared the same views.

109. A Member considered that some conditions might be imposed for the new Small House developments in the "V" zone to control their architectural style and ensure that they would not generate adverse environmental impacts. Two other Members opined that if conditions could be imposed to better control the new Small House developments in the "V" zone, the boundary of the current "V" zone could be retained.

110. On the Member's concern on the potential environmental impacts, Mr K.K. Ling said that the ES of the OZP had already stated that the use of STS systems for sewage treatment and disposal would not be accepted for new village developments located within WGGs, including those in the subject "V" zone. It might therefore not be necessary to specify any requirements in the ES to address the potential environmental concern. Mr C.W. Tse, Deputy Director of Environmental Protection (1), supplemented that for the subject "V" zone located within WGG, EPD and WSD would not accept the use of STS systems.

111. In response to the Chairman's enquiry, Mr Edwin W.K. Chan, Assistant Director (Regional 3), LandsD, said that within the 'VE' and "V" zone, if the land owned by a villager was an agricultural lot, the villager needed to apply to LandsD for Small House grant. LandsD would consult EPD on the proposed sewage disposal and treatment arrangements if the site was located within WGG. However, if the land was a building lot, there might not be any lease condition governing sewage disposal, but the development would still be subject to control of the relevant Ordinances on environmental protection.

112. A Member did not support excluding the north-eastern part of the "V" zone that fell outside the 'VE' from the "V" zone as it would significantly reduce the supply of land to the villagers, which was already inadequate in meeting the outstanding Small House applications. The Member also considered it difficult to assess whether the new Small House in the "V" zone was compatible with the old village houses in practice.

113. A Member said that if the indigenous villagers had the genuine need for Small House development, their right should be respected and adequate land should be reserved for them in the "V" zone. Nevertheless, the information provided by some representers revealed that some private dealings between a developer and some villagers might exist in relation to some Small House developments in the "V" zone. The Member had some reservations on whether the Small House demand in Pak Sha O was genuine, and considered that if the incremental approach was to be adopted, the north-eastern part of the "V" zone which fell outside the 'VE' could be excluded from the "V" zone for the time being. The exclusion of the said area from new Small House development would have the merit of retaining the view from the entry point to the existing old village cluster.

114. As the size of the current “V” zone would not be able to meet the outstanding Small House demand, a Member suggested to exclude the entire eastern part of the “V” zone for better preserving the view towards the existing old village cluster. The Member considered that the Small House demand of Pak Sha O could be met by land in other “V” zones located nearer the new town areas.

115. In summing up, the Chairman noted that while a few Members considered that the “V” zone could be reduced and the Small House demand of Pak Sha O could be met by cross-village Small House applications, the majority number of Members were of the view that the boundary of the current “V” zone could be retained to provide land to meet the Small House demand. Members also generally considered that planning permission should be required for new Small House developments in the “V” zone. Members agreed.

116. At the request of the Chairman, the Secretary briefed Members that in the Notes of the Tai Long Wan OZP, ‘House (NTEH only)’ use was put under Column 2 of the “V” zone requiring planning permission; and in the ES of the OZP, it was stated that planning permission was required to ensure that the new village houses would be in harmony with the historical houses and would not affect the integrity of the existing village setting. Similarly, in the ES of the subject Pak Sha O OZP, it was stated that planning permission was required for new house development and demolition, modification or redevelopment of an existing building in the “V(1)” zone to avoid any change to the existing vernacular Hakka village setting with possible adverse impact on the heritage value of historic buildings and integrity and ambience of the existing village setting.

117. In response to a Member’s question on whether there had been any planning application for Small House development in Tai Long Wan processed by the Board before, the Chairman said five applications were rejected by the Rural and New Town Planning Committee last year, mainly because the applicants failed to demonstrate that the new village houses would be in harmony with the existing historic houses, and would not affect the integrity of the village setting and result in adverse visual impact on the historic village.

118. In response to a Member’s question on whether the new Small Houses in the “V” zone should be required to be in harmony with Hakka style or with the historical houses, the Chairman said that the specific amendments to the ES of the OZP could be worked out by the

Secretariat by making reference to the intent of the Tai Long Wan OZP and submitted to the Board for consideration in a subsequent meeting.

119. A Member said that it was worthwhile to consider the objective of requiring planning permission for Small House development in the “V” zone and the criteria for assessing the Small House applications in the “V” zone. The Chairman remarked that in the case of Tai Long Wan, the intent for planning permission had been set out in the ES of the OZP. Mr K.K. Ling said that it would be left to the applicant to demonstrate that the proposed development met with the planning intention when they made the planning applications.

120. A Member considered that some environmental objectives could also be added to the ES of the OZP requiring that no adverse environmental impacts, in particular the possible impact associated with the use of STS systems, should be created by the new Small House developments in the “V” zone. In response, Mr K.K. Ling said that the ES of the OZP had already indicated that the use of STS systems for sewage treatment and disposal was unacceptable in the area.

121. As regards the “AGR” zoning, a Member queried why an area zoned “GB” along a stream and to the north of the “AGR” zone, which had been under cultivation, was not zoned as “AGR”. In response, the Secretary said that the “GB” zone had a presumption against development. As explained by DPO/STN, the concerned area served as a 20m buffer between the “V” zone and the stream, and was zoned “GB” to give a clear signal that the area was not suitable for development.

122. In response to a Member’s question on why the “AGR” zone was not zoned as “GB” to avoid possible future developments, the Chairman said that the “AGR” zone was to facilitate agricultural rehabilitations. The Board would examine planning applications for Small House development in the “AGR” zone prudently.

123. The Chairman noted that Members generally had no objection to the designation of the “AGR” zone in Pak Sha O. Members agreed.

124. The Chairman concluded that the boundaries of the “V”, “V(1)” and “AGR” zones in Pak Sha O would be retained, the Notes of the “V” zone would be amended to the effect that any new NTEH within the “V” zone would require planning permission from the Board, and the ES of the OZP would also be suitably amended to explain the planning intention. The specific amendments to the draft OZP should be submitted to the Board for consideration before gazetting.

125. Members noted and agreed that the grounds and proposals of the representations and comments had adequately been responded to in paragraphs 6.14 to 6.48 of the Paper.

126. After deliberation, the Board noted the supportive view of Representation No. R516(part). The Board also decided to partially uphold Representations No. R516(part) and R517 to R1807 and considered that the Notes of the Plan should be amended to the effect that any new New Territories Exemption House (NTEH) within the “Village Type Development” (“V”) zone would require planning permission from the Board.

127. The Board also decided not to uphold Representations No. R1 to R349 and R351 to R515 and the remaining part of Representations No. R516 to R1807, and considered that the Plan should not be amended to meet the representations. The reasons were:

“Designation of “V” Zone

- (a) the boundaries of the “V” zone have been drawn up having regard to the village ‘environs’, Small House demand forecast, outstanding Small House application, local topography and site constraints and the high conservation value of the existing village clusters. Only land suitable for Small House development has been included in the “V” zone whilst environmentally/ecologically sensitive areas and steep topography have been excluded;
- (b) the purpose of the planning control within “V(1)” zone is to enable the Town Planning Board (the Board) to consider the potential impacts of individual NTEH development on the existing vernacular Hakka village setting. Each application will be considered on its individual merits;

- (c) the current “Green Belt” (“GB”) zoning surrounding and to the immediate south of the existing village core of Pak Sha O village is considered appropriate with the intention to provide a green buffer, thereby preserving the outstanding vernacular Hakka village and the natural settings and landscape value of the area;
- (d) the “GB” zone at Pak Sha O Ha Yeung provides planning control against undesirable encroachment of village expansion upon the natural environment thereby preserving the distinctive natural settings and landscape value of the Area;

Unjustified Small House Demand Forecast

- (e) the Small House demand forecast is only one of the factors in drawing up the “V” zones and the forecast is subject to variations over time;

Adverse Environmental Impacts from Small House Development

- (f) there is sufficient control in the current administrative system to ensure that individual Small House development within the “V” zone would not entail unacceptable impacts on the surrounding environment;

Insufficient Protection to the Historic Hakka Settlements at Pak Sha O Village and Concern on ‘Destroy First, Build Later’

- (g) the “V” zone is proposed to balance the needs between Small House development and preservation of historic settlements at Pak Sha O;

Designation of “Agriculture” (“AGR”) Zone not Justified

- (h) the “AGR” zone is considered appropriate to facilitate agricultural rehabilitations;

To Rezone Environmentally Sensitive Areas from “GB” to “GB(1)” or “Conservation Area”(“CA”)

- (i) the woodland developed from abandoned agricultural land and native woodland on the surrounding hillside, natural streams and their riparian zones have been zoned “GB” which is a conservation zoning with a general presumption against development and it is considered appropriate in providing planning protection to the natural environment of the Area;

To Impose More Stringent Control on ‘Agricultural Use’

- (j) permission from the Board is required for any works relating to excavation of land (within the “GB” and “CA” zones), and diversion of streams or filling of land/pond (within the “V”, “AGR”, “GB” and “CA” zones). There is no strong justification for imposing more stringent control on ‘Agricultural Use’ and irrigation ditches for farming activities in the relevant zones;
- (k) prior approval for the use of chemicals including fertilizers must be sought from the Water Supplies Department. There should be sufficient safeguards for the protection of the Ecologically Important Stream;

To Delete ‘House’ or ‘Small House’ Use from Column 1 or Column 2 of the Notes of the “AGR”and/or “GB” Zones

- (l) ‘House’ use requires planning permission from the Board and each application will be considered by the Board based on its individual merits taking into account the prevailing planning circumstances, relevant guidelines and relevant departments’ comments. There is no strong justification to impose further restrictions on these zones;

To Restrict the Built Form of New Development within “V(1)” Zone

- (m) according to the Notes of the “V(1)” zone, proposed house and any

demolition, or addition, alteration and/or modification to or replacement/redevelopment of an existing building requires planning permission from the Board. Each application would be considered by the Board based on its individual merits. There is no strong justification to impose further restrictions on the “V(1)” zone;

To Control Public Works Implemented or Co-ordinated by Government

- (n) flexibility has been provided in the covering Notes of the Plan for public works coordinated and implemented by Government generally necessary for the benefits of the public, emergency repairs and/or environmental improvement. It would not be in the public interest to require government departments to obtain prior planning approval before undertaking these works as this might cause unnecessary delay to such essential works and adversely affect the public. There are administrative mechanisms to ensure that the environmental impacts of such works would be properly addressed;

To Designate the Area as Country Park

- (o) incorporation of the Area into Country Park is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) which is outside the purview of the Board. Preparation of the statutory plan would not preclude any future designation of Country Park;

Other Views

- (p) the “Ho Residence and Ho Ancestral Hall” in Pak Sha O has been accorded with Grade 1 status and become one of the candidates of the pool of highly valuable heritage buildings for consideration of monument declaration in future. Preparation of the draft OZP is not a designated project and not subject to the Environmental Impact Assessment Ordinance;

- (q) the preparation of new village layout plan for village will depend on a number of factors such as implementation prospect of the layout plan, manpower and priority of works within the Planning Department. The need for preparation of new village layout for the “V” zone to be covered by the OZP will be reviewed as appropriate in due course;
- (r) relevant information on the preparation of the draft OZP and documents on Small House application including Town Planning Board Guidelines No. 10 on “Application for Development within Green Belt Zone under Section 16 of the Ordinance” and the “Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories” are available at the Board’s website;
- (s) each application would be considered by the Board on its individual merits, taking into account relevant guidelines which can be found at the Board’s website; and
- (t) other views and requests are outside the purview of the Board. They would be relayed to relevant government departments for consideration as appropriate.”

128. As the Chairman had to leave the meeting, the Vice-chairman took up chairmanship of the meeting at this point.

[Mr Michael W.L. Wong and Dr Lawrence K.C. Li left the meeting at this point, and Dr Lawrence W.C. Poon and Dr C.H. Hau arrived to join the meeting at this point.]

Tsuen Wan and West Kowloon District

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/K1/251

Proposed Minor Relaxation of Site Coverage Restriction (from 15% to 24%) for Permitted Place of Recreation, Sports or Culture Use in “Other Specified Uses” annotated “Sports and Recreation Clubs” Zone, Kowloon Cricket Club, Cox’s Road, Tsim Sha Tsui, Kowloon (TPB Paper No. 10142)

[The item was conducted in Cantonese and English.]

129. The Secretary reported that the following Members had declared interests in the item for owning property in the area or for having affiliations with Urbis Ltd. (Urbis) and Ramboll Environ Hong Kong Ltd. (Environ) which were two of the consultants of the applicant:

Ms Christina M. Lee - her company owning properties at Kimberley Road, Tsim Sha Tsui and spouse owning a carpark space at 1 Austin Road West, Tsim Sha Tsui

Mr Ivan C.S. Fu] having current business dealings with
Ms Janice W.M. Lai] Urbis and Environ

Mr Franklin Yu - having past business dealings with Urbis

130. Members noted that Ms Christina M. Lee, Mr Ivan C.S. Fu and Ms Janice W.M. Lai had tendered apologies for being unable to attend the meeting. As Mr Franklin Yu had no involvement in the application, Members agreed that he should be allowed to stay in the meeting.

Presentation and Question Sessions

131. The following representatives from the Planning Department (PlanD) and the applicant's representatives were invited to the meeting:

Ms Fannie F.L. Hung - District Planning Officer/Tsuen Wan and
West Kowloon (DPO/TWK), PlanD

Ms Michelle M.S. Yuen - Senior Town Planner/Yau Tsim Mong
(STP/YTM), PlanD

Mr Alan MacDonald] Applicant's Representatives

Mr Greg Hartigan]

Mr David Brettell]

Mr Eddie Chan]

Mr David Allan Parkin]

Ms Winona Ip]

132. The Vice-chairman extended a welcome and explained the procedure of the review hearing. He then invited PlanD's representative to brief Members on the review application.

133. With the aid of a PowerPoint presentation, Ms Michelle M.S. Yuen, STP/YTM, presented the review application and covered the following main points as detailed in the Paper:

- (a) the applicant applied for a review on an approval condition imposed to the planning permission for minor relaxation of site coverage (SC) restriction for the development of a new sports and recreation building within the Kowloon Cricket Club (KCC) at Cox's Road, Tsim Sha Tsui (the Site). The Site fell within an area zoned "Other Specified Uses" annotated "Sports and Recreation Clubs" ("OU(SRC)") with SC and building height (BH) restrictions of 15% and 15mPD respectively on the approved Tsim Sha Tsui Outline Zoning Plan (OZP) No. S/K1/28;

- (b) the Site and its surrounding – the Site with an area of 25,093m² was currently occupied by the club buildings of 2 to 4 storeys. There were open areas for two bowling greens and a cricket field. The proposed new building would be located at one of the bowling greens. To the west of the Site was the Gun Club Hill Barracks and to the east were mainly residential developments such as Carmen’s Garden and Emperor Height;
- (c) there were no previous and similar applications;
- (d) the application was for minor relaxation of SC restriction from 15% to 24% to facilitate a 6-storey (including 3 basement and 1 roof floors) new recreation building adjacent to existing multi-storey car park. Recreation facilities including an indoor sports hall and bowling court, a gymnasium and open games area, an indoor synthetic lawn bowl, and a multi-function outdoor sports ground were provided at B3/F, G/F, 1/F and R/F respectively with 60 ancillary car parking spaces at B2/F to G/F;
- (e) on 22.1.2016, the Metro Planning Committee (MPC) of the Board approved the application subject to conditions. Minor relaxation of SC was considered acceptable to provide additional recreational facilities but there was concern on the loss of green area. The MPC also considered that if the whole roof floor was turfed with natural grass, the loss of green area would be minimised, and thus an approval condition (i.e. condition (b)) requiring the applicant to turf the whole roof floor of the proposed building with natural grass was imposed, among other approval conditions;
- (f) on 25.2.2016, the applicant applied under section 17(1) of the Town Planning Ordinance for a review on imposition of the approval condition (b). The applicant’s justifications set out in paragraph 3 of the Paper;
- (g) public comments – a total of 32 public comments were received on the review application. Only one public comment supported the application on the grounds of planting lawn grass at rooftop was not pragmatic as

temperature at open rooftop with direct sunshine reached 45°C with little rain in summer; and there was no grass rooftop in the surrounding area and also not many in the whole territory. The remaining public comments objected to the application on the grounds of advantages of green roof to the local environment, feasibility, effectiveness of vertical greening, relaxation was not minor, the need of new recreational facilities and more parking spaces was not justified, traffic congestion and its impact on emergency services, blockage of view of the nearby buildings, modification of the existing facilities to meet the needs instead of taking away the lawn, and the existing trees near the access of the existing car park should be preserved;

- (h) PlanD's views – PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
 - (i) on structural loading, the Architectural Services Department (ArchSD) advised that green roof was well-established in Hong Kong. It was not justified by the applicant that the approval condition (b) could not be complied with. Whilst noting that the lawn grass tennis courts at the roof level might incur high maintenance cost in the long run, ArchSD could not see any technical problem to render infeasibility to install the green roof in a new building. The Buildings Department (BD) also indicated that without submission of the detailed structural design of the proposed rooftop sports ground, it would be premature to point out at this stage that the required green roof increasing the structural loading was technically infeasible;
 - (ii) on building height, the Civil Engineering and Development Department advised that the Site was not located within the railway protection zone, excavation was unlikely to pose insurmountable problem from a geological point of view. There was no evidence that the underground spaces could not be used to provide for the

extra structural requirements;

- (iii) on climatic and shadow effect, the Leisure and Cultural Services Department (LCSD) did not agree that shade-tolerant grass species were not suitable for playing sports, or intense wear and tear and natural dormancy in Winter Solstice would make sports lawn impossible to maintain. There were examples in Hong Kong of green roofs. Most of the species were evergreen and some were wind, salt spray, drought, pollution and shade-tolerant. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD also advised that as the new building would be at the same location of the existing lawn, performance of the proposed rooftop lawn should be similar if not better due to its elevated level. Grassed green roof had environmental benefits over artificial turf surface in terms of its ability to improve air quality and could ameliorate heat island effect by reducing the extent of heat-absorbing surfaces; and
- (iv) the deletion of the lawn grass planting under the approval condition would undermine the intention of the Board in ensuring the loss of the existing green lawn could be compensated. There was insufficient information to demonstrate that the proposed vertical greening would serve the purpose of compensating the loss of the existing green.

134. At this point, the Secretary reported that Mr H.W. Cheung had declared an interest in the item as he was the Chairman of the Board of Directors of the Hong Kong Green Building Council (HKGBC) which promoted green roof development. Professor S.C. Wong, Vice-chairman said that he was also a Director of the HKGBC. Members noted the interests of Professor Wong and Mr Cheung were indirect and agreed that they should be allowed to stay at the meeting.

135. The Vice-chairman then invited the applicant's representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr Alan MacDonald made the following main points:

- (a) he was currently working on the new Hong Kong Stadium project at Kai Tak and it was just decided that the Stadium should use synthetic turf because it would be easier to maintain given the shading problem. Because of Hong Kong's warm summer and cold winter, different species of grass would be used for different seasons;
- (b) roof top conditions were not the same as those at ground level such as drainage requirements were different;
- (c) the proposed development was for expansion of the club facilities and the facilities were not just serving KCC's members but also the general public including students. The usage of the tennis facilities in KCC was very intensive;
- (d) the applicant was pleased with approval of the application in January 2016, but imposition of approval condition (b) would have serious ramifications including difficult to maintain due to shadowing effect by nearby high-rise buildings, high maintenance cost due to high intensity of use of the tennis courts, and additional structural loading;
- (e) while wear and tear could be easily spotted in the tennis courts during the Wimbledon tournament which had only just three to four matches a day, the current average usage of the KCC's green lawn tennis courts was about seven hours a day. The conditions of the existing lawn were not very satisfactory because of the wear and tear and it was proposed to move the lawn indoor and to use synthetic turf;
- (f) the applicant had carried out sun path analysis to indicate the extent to which the roof top green lawn would be under shade and examined the lawn specifications and requirements to determine drainage, soil cover etc. required for the lawn. For an extensive green roof to survive, it would require sufficient depth of soil, sufficient drainage and waterproof layer, sufficient exposure over the entire lawn to direct sunlight, and good ventilation;

- (g) there was virtually no permanent active lawn tennis courts in Hong Kong due to the prevailing weather conditions. Most of the tennis courts in private clubs were hard courts with a few with artificial turfing;
- (h) the sun path and shading analysis had proved shadowing was a problem and it was infeasible as the proposed roof top lawn would have less than 6 hours direct sunlight. Duration of sunlight was slightly better in the Summer Solstice, but it was hot and too much rain in the summer. The live real-time solar recorded at KCC had shown the long hours of partial shading of the site which meant insufficient sun light;
- (i) there were many examples of green roof failure and there were practicality and feasibility issues concerning green roof design that needed to be addressed. Concerns included loading of building materials, significant weight of maintenance equipments, fertilizers and chemicals, supplies for tennis court which would be significant for the design of the roof with a long span;
- (j) to solve the sunlight issue, a 'grow light rigs' system similar to those used in the Singapore Stadium would be required, there were challenging technical difficulties to be addressed and those measures would be very expensive; and
- (k) the recent incident of the collapse of the roof at the City University Sports Centre was an important lesson to learn.

136. With the aid of a PowerPoint presentation, Mr Greg Hartigan made the following main points:

- (a) supporting letters from the schools using the KCC facilities were received and they were excited to learn that there would be two additional tennis courts in KCC. The usage of the existing tennis court was 7.4 hours per day. From his previous experience in Canada, green lawn tennis court could only be used an hour per day;

- (b) KCC was expanding space for the additional recreational facilities for its members, serving some 10,000 people. The existing tennis courts were on the roof of the car park building as ground level space was insufficient within KCC. The two additional tennis courts would allow the much needed maintenance works of the existing courts to start earlier. KCC recently intended to organise a junior tennis programme to sustain tennis development but could not do so due to the high usage rate of the existing courts; and

- (c) under KCC's Private Recreational Lease, KCC was required to provide facilities for public use a minimum of 50 hours per month. In 2015, KCC had allowed authorised outside bodies to use its facilities for 416 hours per month. It was KCC's objective to provide facilities for promoting sports in the community.

137. With the aid of a PowerPoint presentation, Mr Alan MacDonald made the following main points:

- (a) the applicant's major responses to departmental comments were:
 - (i) the requirements of BD would be satisfied;

 - (ii) for CTP/UD&L, PlanD, as explained above, it was technically infeasible to have the lawn grass tennis court at the roof level as it would significantly increase the structural loading. The applicant was prepared to provide more and other types of greening other than in the tennis court area; and

 - (iii) for LCSD, the examples of green roof in Hong Kong mentioned were not for playing tennis as those proposed in KCC;

- (b) referring to the existing conditions of lawn in Tamar Park, which was one of the examples cited by LCSD of having green roof, significant wear and tear was observed even the Park was not used for playing tennis;

- (c) the existing lawns in KCC were not used for playing tennis and the proposed natural turf on the roof could not be used for playing tennis due to limited availability of sunlight, the requirement of a 'grow light rig' system, and the grass roof requirement was against the potential use of the roof for sporting facility;
- (d) as shown on the photos taken from Lee Garden II, grass turf was found only at grade and synthetic green surfaces at surrounding roof tops appeared to have a positive visual quality; and
- (e) it was thus proposed to amend approval condition (b) to "the submission and implementation of tree preservation and landscape proposal including not less than 711m² of vertical/planting boxes greening to the satisfaction of the Director of Planning or of the TPB". The proposal was based on the successful result of the existing vertical greening utilising trellis system and peripheral planting boxes in KCC's car park building as well as a site in Kai Tak. The proposed area of 711m² was based on the area of the proposed roof-top tennis courts.

138. As the presentation of the applicant's representatives was completed, the Vice-chairman invited questions from Members.

139. In response to a Member's questions, Ms Fannie F.L. Hung, DPO/TWK, said that the applicant objected only to the part of approval condition (b) relating to lawn grass planting proposal on the whole roof floor and had no objection to the requirements on the submission and implementation of tree preservation and landscape proposal. Ms Michelle M.S. Yuen, STP/YTM, supplemented that the roof was indicated as a multi-function outdoor sports ground in the applicant's submission at the section 16 application stage and there was no clear indication that it would only be used for playing tennis.

140. Another Member asked whether the proposed amendment to approval condition (b) by replacing roof-top grass lawn with vertical planting of climbers would be feasible given there were insufficient sunlight and shading problem at the Site as claimed by the applicant. In response, Mr Alan MacDonald said that grass lawn and climbers were

different species having different behaviour. There were many species of climbers that could grow well in Hong Kong but not grass. As shown earlier from the vertical planting at the KCC car park building, the planting was growing satisfactorily. The same Member said that the planting seen in the car park building of KCC was actually scrubs instead of climbers. From the Member's own experience, most climber species in Hong Kong were seldom able to climb that high without sufficient sunlight and the example in Kai Tak was unique as there was more sunlight in that area. In response, Mr MacDonald said that there were many situations in Hong Kong where climbers could grow well even with low light condition and, more importantly, grass was more sensitive to seasonal changes.

141. As Members had no further question to raise, the Vice-chairman informed the applicant's representatives that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Vice-chairman thanked the applicant's representatives and PlanD's representatives for attending the meeting. They left the meeting at this point.

Deliberation Session

142. A Member recalled that MPC generally had no objection to the application, but as the proposed new building would affect an existing green lawn, MPC Members agreed that an approval condition should be imposed to require the applicant to turf the whole roof floor of the proposed building with natural grass to ensure that the loss of the existing lawn due to the minor relaxation of SC restriction was compensated. Members at that time did not have particular concern on the type of sport activities to be provided at the roof. Another Member said that in considering application for minor relaxation of SC restriction, planning merits were usually expected. If the approval would result in a loss of the existing green lawn, it was a planning loss and would not be acceptable. Besides, the approved scheme only indicated a multi-function outdoor sports ground at the roof and had not indicated the sports ground would be used for tennis only.

143. A Member said that planting of climbers had similar risk of failure as that of natural grass based on the experience from a number of government projects on slope stabilisation. The proposed replacement for green lawn by vertical green would hardly be

feasible as it was not common for climbers in Hong Kong to climb up to 15m.

144. A Member said that the proposed minor relaxation of SC restriction was for the development of a new sports and recreation building to further enhance the club facilities. The green turf was to compensate the lost of the existing lawn. It would be up to the applicant if he would like to use the roof-top grass lawn as tennis courts or other uses.

145. Two Members considered that the concerned loading and shadowing problems regarding green roof could be tackled through building design. As the proposed new building would be located at an existing lawn, the sunlight at the proposed roof level should be better due to its elevated level. A Member considered that MPC did not approve a scheme with tennis courts at the roof level of the new building and the applicant's justifications for deleting the green turf to make way for the tennis courts were not acceptable.

146. The Vice-chairman concluded that Members in general did not see any technical problem to install the green roof in a new building and did not support the review application.

147. After deliberation, the Board decided to reject the application on review based on the following reasons:

- “(a) the applicant fails to demonstrate that the compliance of approval condition (b) is technically infeasible; and
- (b) the approval of the review application will undermine the Town Planning Board's intention to ensure that the loss of the existing green lawn would be compensated at the application site.”

Sha Tin, Tai Po and North District

Agenda Item 5

[Open Meeting]

Draft Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Outline Zoning Plan

No. S/NE-TT/B – Further Consideration of a New Plan

(TPB Paper No. 10143)

[The item was conducted in Cantonese.]

148. In view of the overrun in the meeting schedule, the Vice-chairman suggested and Members agreed that consideration of Agenda Item 5 should be deferred to the next meeting.

Procedural Matter

Agenda Item 6

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/21

(TPB Paper No. 10144)

[The item was conducted in Cantonese.]

149. The Secretary reported that one of the representation sites (amendment Item A) was for a proposed public housing to be undertaken by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA). Two of the representers, R3 (City Jet Development) and R7 (Hong Kong and China Gas Company Limited) were subsidiaries of Henderson Land Development Co. Ltd. (Henderson) and Masterplan Limited was the consultant of R3. The following Members had declared interests in the item:

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

- Mr Martin W.C. Kwan
(as Chief Engineer (Works),
Home Affairs Department)
- Mr H.F. Leung
- Ms Janice W.M. Lai
Mr Patrick H.T. Lau
Mr Stephen L.H. Liu
- Dr C.H. Hau
Mr Thomas O.S. Ho
- Mr Ivan C.S. Fu
- Mr Dominic K.K. Lam
- Mr Franklin Yu
- Dr Lawrence W.C. Poon
- Professor K.C. Chau
Professor S.C. Wong
Dr Wilton W.T. Fok
- being an alternate representative of the Director of Home Affairs who was a member of the SPC and the Subsidised Housing Committee of HKHA
 - being a member of the Tender Committee of HKHA and being employee of University of Hong Kong (HKU) which had received a donation from a family member of the Chairman of Henderson before
 -] having current business dealing with HKHA and Henderson
 -] having current business dealing with HKHA
 - having current business dealing with Henderson and Masterplan, and past business dealing with HKHA
 - having past business dealing with HKHA
 - having past business dealing with HKHA and Henderson
 - his spouse being an employee of HD but not involved in planning work
 -] being employees of Chinese University of Hong Kong (CUHK) or HKU which had received a donation from a family member of the Chairman of Henderson before

- Ms Christina M. Lee - being Secretary-General of the Hong Kong Metropolitan Sports Events Association which had received sponsorship from Henderson before
- Mr Peter K.T. Yuen - being a Member of the Board of Governors of the Hong Kong Arts Centre which had received a donation from an Executive Director of Henderson before
- Mr Wilson Y.W. Fung - being a Director of the Hong Kong Business Accountants Association which had obtained sponsorship from Henderson before
- Dr Lawrence K.C. Li - being the Treasurer of the Hong Kong Polytechnic University which had obtained sponsorship from Henderson before

150. As the item was procedural in nature, Members agreed that the above Members should be allowed to stay in the meeting. Members noted that Ms Janice W.M. Lai, Mr Stephen L.H. Liu, Mr Ivan C.S. Fu, Professor K.C. Chau, Dr Wilton W.T. Fok and Ms Christina M. Lee had tendered apologies for not being able to attend the meeting, and Mr H.F. Leung, Dr Lawrence K.C. Li and Mr Thomas O.S. Ho had already left the meeting.

151. The Secretary briefly introduced the Paper. On 29.1.2016, the draft Fanling/Sheung Shui Outline Zoning Plan (OZP) No. S/FSS/21 was exhibited for public inspection under section 5 of the Town Planning Ordinance. A total of 9 representations and 226 comments were received.

152. It was recommended that the representations and comments should be considered by the full Board. The hearing could be accommodated in the Board's regular meeting and a separate hearing session would not be necessary.

153. As the representations and related comments were quite different in nature, the representations and comments would be considered in two groups. Group 1 would be for

R1 and R2 relating to On Lok Tsuen; and Group 2 would include R3 to R9 and 226 comments (C1 to C226) relating to Fanling Area 48.

154. In view of the large number of representations and comments received and to ensure efficient operation of the hearing, it was recommended to allot a maximum of 10 minutes presentation time to each representer/commenter in the hearing session. Consideration of the representations and comments was tentatively scheduled for September/October 2016.

155. After deliberation, the Board agreed that:

- (a) the representations and comments should be heard by the Board in the manner proposed in paragraph 3 of the Paper; and
- (b) the Chairman would, in liaison with the Secretary, decide on the need to impose the 10-minute presentation time for each representer and commenter, taking into account the number of representatives and commenters attending the hearing.

Agenda Item 7

[Confidential Item] [Closed Meeting]

156. The item was recorded under confidential cover.

Agenda Item 8

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

157. There being no other business, the meeting was closed at 7:30 p.m.