

**Minutes of 1135th Meeting of the
Town Planning Board held on 10.2.2017**

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

Professor K.C. Chau

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

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

Mr Stephen L.H. Liu

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

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

Deputy Director of Lands (General)
Ms Karen P.Y. Chan

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

Director of Planning
Mr Raymond K.W. Lee

Deputy Director of Planning/District
Ms Jacinta K.C. Woo

Secretary

Absent with Apologies

Mr H.W. Cheung

Dr Wilton W.T. Fok

Ms Christina M. Lee

Mr H.F. Leung

Dr Lawrence K.C. Li

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

In Attendance

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

Chief Town Planner/Town Planning Board
Mr Kepler S.Y. Yuen

Senior Town Planner/Town Planning Board
Mr K.K. Lee

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1132nd Meeting held on 20.1.2017

[The item was conducted in Cantonese.]

1. The minutes of the 1132nd meeting held on 20.1.2017 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

2. There were no matters arising to be reported.

Sha Tin, Tai Po and North District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Further Representations on Proposed Amendments to the Draft Pak Sha O Outline Zoning Plan (OZP) No. S/NE-PSO/1 Arising from the Consideration of Representations and Comments made on the Draft Pak Sha O OZP No. S/NE-PSO/1 (TPB Paper No. 10242)

[The item was conducted in Cantonese and English.]

3. The Secretary reported that The Conservancy Association (R519 and C1), The Hong Kong Bird Watching Society (HKBWS) (R520), Designing Hong Kong (DHK) (R521 and C2) and Kaitak Centre for Research and Development, Academy of Visual Arts, Hong Kong Baptist University (HKBU) (R526) had submitted representations/comment in respect

of the draft OZP. The following Members had declared interests in the item:

- Dr C.H. Hau - being the Vice-chairman of The Conservancy Association and a member of HKBWS
- Mr Stephen H.B. Yau - being the Chairman of the Social Work Advisory Committee of the Department of Social Work in HKBU
- Mr Philip S.L. Kan - being a former member of the Court of HKBU
- Ms Christina M. Lee - being a part-time student of HKBU
- Mr K.K. Cheung] their firm having current business dealings with HKBU
- Mr Alex T.H. Lai]
- Mr Thomas O.S. Ho - personally knowing Mr Paul Zimmermann, co-founder and Chief Executive Officer of DHK

4. Members noted that other than the interest of Dr C.H. Hau which was direct, the interests of other Members who had declared interests in the item were remote as they had no involvement in the subject matter under consideration and agreed that those Members should be allowed to stay at the meeting. Members also noted Dr C.H. Hau, Mr Philip S.L. Kan and Mr Alex T.H. Lai had not yet arrived to join the meeting, and Ms Christina M. Lee had tendered apologies for being unable to attend the meeting.

5. Ms Sandy H.Y. Wong also declared an interest in the item at this point as she was recently appointed as a Council Member of HKBU. As Ms Wong had no involvement in the subject matter under consideration, Members considered that her interest was remote and agreed that she should be allowed to stay at the meeting.

6. The Chairman said that reasonable notice had been given to the further representers, 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 further

representers, representers and commenters, the Town Planning Board (the Board) should proceed with the hearing of the further representations in their absence.

Presentation and Question Sessions

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

Government representatives

Ms Jessica H.F. Chu - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), Planning Department (PlanD)

Ms Channy C. Yang - Senior Town Planner/Country Park Enclaves, PlanD

Further Representer/Representers/Commenters or their representatives

F1 – Woo Ming Chuan

R520 – The Hong Kong Bird Watching Society

Ms Woo Ming Chuan - Further Representer and Representer's representative

R517 – World Wide Fund For Nature Hong Kong

C11 – Chan Chung Ming

Mr Chan Chung Ming - Commenter and Representer's representative

R518/C3 – Kadoorie Farm and Botanic Garden Corporation

R531 – Nip Hin Ming Tony

R536 – Mark Isaac Williams

R538/C4 – Chiu Sein Tuck

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

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

Ms Wong Wai Yee - Representers' and Commenters' representative

R519/C1 – The Conservancy Association

R1487 – Ching Heung Kwan Winnie

Mr Ng Hei Man] Representers' and Commenter's

Ms Chan Wing Kwan Charlotte] representatives

R524 – The Professional Commons

Dr Robin Bradbeer - Representer's representative

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

R533/C10 – Kwan Long Hei Matthew

R1230 – Wong Suk Ki

Mr Kwan Long Hei Matthew - Representer, Commenter and Representers' representative

R528 – Christophe Barthelemy

Mr Christophe Barthelemy - Representer

R529 – Ruy Barretto

Mr Ruy Barretto - Representer

R1390 – Nicola Newbery

Mr Thomas Edwin Goetz] Representer's representatives

Mrs Lauralynn Goetz]

8. The Chairman extended a welcome. He went on to say that DPO/STN would brief Members on the background to the further representations. He would then invite the further representer to make oral submission, followed by the oral submissions of the representers and commenters or their representatives. To ensure efficient operation of the hearing, each further representer/representer/commenter or his representative was allotted 10 minutes for making presentation. There was a timer device to alert the further representer/representers/commenters or their representatives two minutes before the allotted

10-minute time was to expire and when the allotted 10-minute time limit was up. Question and answer (Q&A) session would be held after all attending further representer/representers/commenters or their representatives had completed their oral submissions. Members could direct their questions to government representatives, further representer/representers/commenters or their representatives. After the Q&A session, government representatives, further representer/representers/commenters or their representatives would be invited to leave the meeting; and the Board would deliberate on the further representations in their absence and inform the further representers/representers/commenters of the Board's decision in due course.

9. The Chairman then invited DPO/STN to brief Members on the background to the further representations.

[Ms Janice W.M. Lai, Mr Dominic K.K. Lam, Dr Frankie W.C. Yeung, Mr Philip S.L. Kan and Dr Lawrence W.C. Poon arrived to join the meeting during the presentation of DPO/STN.]

10. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN, briefed Members on the further representations, including the background of the proposed amendments to the draft Pak Sha O OZP No. S/NE-PSO/1 (the draft OZP), the views and proposals of the further representations, planning assessments and PlanD's views on the further representations, as detailed in the TPB Paper No. 10242.

11. The Chairman then invited the further representer, representers, commenters and their representatives to elaborate on make oral submissions.

F1 – Woo Ming Chuan

R520 – The Hong Kong Bird Watching Society (HKBWS)

12. With the aid of a PowerPoint presentation, Ms Woo Ming Chuan made the following main points in her capacity as F1:

- (a) the "Village Type Development" ("V") zone designated on the Pak Sha O OZP was inappropriate as the area was subject to flooding risk. The

indigenous villagers had their wisdom as they knew that the location of the “V” zone was on lowland, and therefore they did not build their village houses in that area in the past and only used that area for farming;

- (b) the designation of the “V” zone did not respect the farming activities currently carried out in that area. Such designation was seen to be an action of the Board to condone the land owners’ ‘destroy first, build later’ activities;

- (c) as regards her concerns on flooding raised in the further representation, PlanD responded in the Paper that land filling activities in the “V” zone would require planning permission from the Board. While the intention of requiring planning permission for land filling in the “V” zone was good, she was worried that the Board would be inclined to approving such applications as the “V” zone was indeed a development zone. There had been several similar applications for land or pond filling approved by the Board in Ping Shan and Lau Fau Shan areas before. In one case which was within the Wetland Buffer Area in Fung Lok Wai, even if the Agriculture, Fisheries and Conservation Department had reservation on the application for land filling owing to the anticipated loss of wetland, PlanD still recommended approval of the application as the site was within the “V” zone and under private ownership, and the Lands Department (LandsD) had approved the Small House grant application on the site;

[Mr Alex T.H. Lai arrived to join the meeting at this point]

- (d) despite the Board’s goodwill to exercise more development control for Small House development in the “V” zone of Pak Sha O through the proposed amendments to the draft OZP, the “V” zone was a development zone with the planning intention primarily for development of Small Houses by indigenous villagers. It was not a zoning for flood control nor conservation of farmland and natural habitats. If new Small Houses were to be built in the area north of the existing village cluster, the vernacular

Hakka village setting of Pak Sha O would be lost completely, which was against the general planning intention of the draft OZP; and

- (e) she hoped the Board could respect and protect the farmland by removing the “V” zone from the draft OZP.

13. With the aid of a PowerPoint presentation, Ms Woo Ming Chuan continued to make the following main points on behalf of HKBWS (R520):

- (a) Pak Sha O was of high ecological value. From 1999 to 2014, HKBWS had recorded 175 species of birds in Pak Sha O. Among them, 57 species were of conservation concern. In particular, Pak Sha O was the breeding, roosting and foraging grounds of Brown Fish Owl which was a species under Class II protection in China and of regional concern;
- (b) the draft Development Permission Area (DPA) Plan for Pak Sha O was prepared in 2012 in response to some suspected land excavation activities carried out in the area at that time. The draft OZP was later gazetted to replace the DPA Plan. During the interim period, the area where land excavation activities had occurred was turned to dry farming. During the course of preparation of the draft OZP, the farmland to the north of the village cluster was initially proposed to be zoned as “Agriculture” (“AGR”) to reflect the agricultural activities there. However, after taking into consideration the views of the villagers and the rural community, the area was eventually designated as “V” on the gazetted draft OZP. Meanwhile, some applications for Small House grant were submitted on sites falling within the “V” zone, involving suspected illegal transfers of Small House rights. It was wondered if the claimed Small House demand in Pak Sha O was genuine for meeting the housing need of the indigenous villagers; and
- (c) HKBWS requested the Board to note that the Pak Sha O area was of high ecological and conservation value. The Board should not tolerate any ‘destroy first, build later’ activities but should protect the farmland and the

natural habitats and remove the “V” zone from the OZP.

R517 – World Wide Fund For Nature Hong Kong (WWF-HK)

C11 – Chan Chung Ming

14. With the aid of a PowerPoint presentation, Mr Chan Chung Ming made the following main points:

- (a) WWF-HK supported F1 and maintained their objection to the designation of the “V” zone on the draft OZP;
- (b) Pak Sha O was a site of ecological importance with 10 habitats that supported over 1,000 floral and fauna species. The habitats were linked with each other and not standing alone. Many wildlife species required a mix of habitats. The existence of diverse habitats in a small place like Pak Sha O contributed to its high biodiversity;
- (c) according to the International Union for Conservation of Nature, Chinese Red Data Book, there were 24 species of conservation concern in global/regional scale, 72 species of conservation concern in local scale, and one new to science species in Pak Sha O. In view of its high biodiversity, Pak Sha O was of conservation importance;
- (d) the designation of the “V” zone was not in line with Chapter 10 of the Hong Kong Planning Standards and Guidelines (HKPSG) on ‘Conservation’. 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 optimise their conservation value’ (Section 2.1 (iii)), the OZP was running in the opposite direction leading to further adverse impacts on the conservation zones and diminishing their conservation value;

- (e) the “V” zone would impose adverse impacts on the ecological resource and species of conservation interest in Pak Sha O, resulting in direct habitat loss (including the active agricultural land, marshes and secondary woodlands), indirect impacts (such as disturbance, water and light pollution) on the wildlife in nearby watercourse, woodland, marshes, grassland habitats, and loss of biodiversity. It was not in line with the general planning intention of the Pak Sha O OZP to conserve the high natural landscape and ecological significance of the area in safeguarding the natural habitat and natural system of the wider area; and

- (f) the existing area of the “V” zone and its adjoining areas could help reduce flooding risk by serving as a ‘sponge’ to absorb the excessive water during heavy rainfall. Allowing New Territories Exempted House (NTEH) developments in the “V” zone would increase surface runoff as the area for absorbing excessive water would decrease. Although the Board had decided that, as a precautionary measure on potential flooding risk, land filling activities in the “V” zone should require planning permission, the planning intention of “V” zone had already assumed that the area was suitable for village expansion and site formation would be inevitable when building the NTEHs. The surface runoff from the future site excavation and formation works would flow into the Ecologically Important Stream (EIS) easily, especially after heavy rains, creating adverse impacts on the ecology and water quality of the EIS and the Hoi Ha Wan Marine Park. Based on the above considerations, the “V” zone should be deleted from the draft OZP.

[Mr Franklin Yu arrived to join the meeting at this point]

R518/C3 – Kadoorie Farm and Botanic Garden Corporation

R531 – Nip Hin Ming Tony

R536 – Mark Isaac Williams

R538/C4 – Chiu Sein Tuck

15. Mr Nip Hin Ming Tony made the following main points:

- (a) their views on the designation of the “V” zone in Pak Sha O had been presented to the Board when the representations and comments in respect of the draft OZP were heard on 22.7.2016. In gist, he objected to the designation of the “V” zone;
- (b) he wondered if the Small House demand of the indigenous villagers in Pak Sha O was genuine as most of the current residents in Pak Sha O village were foreigners. The media had also reported that a number of the land lots in Pak Sha O were owned by a development company. Whether the indigenous villagers would return from overseas to live in Pak Sha O as claimed was questionable;
- (c) in a newspaper reporting of 2013 about the interview with Mr Tang Tat Chi William, a well-known indigenous villager who was grown up in Ping Shan, Mr Tang commented that the rural New Territories, which used to be a back garden of Hong Kong people, was turning into a place for making extortionate profits by the property developers, and the interests of ordinary people to appreciate the heritage and beauty of the countryside had been exploited; and
- (d) the Board should consider whether the “V” zone in Pak Sha O, which was remote in location and not served by any vehicular access road, was a suitable dwelling place for people.

R519/C1 – The Conservancy Association

R1487 – Ching Heung Kwan Winnie

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

- (a) The Conservancy Association maintained its objection to the designation of a large piece of farmland as “V” zone in Pak Sha O;

- (b) the proposed amendments to the draft OZP by requiring planning permission from the Board for Small Houses development in the “V” zone were intended to ensure that the new Small Houses in Pak Sha O would be in harmony with the surroundings. However, the Board should consider carefully whether such an intention could be achieved in reality;
- (c) in the Board’s recent approval of five proposed Small Houses in the “V” zone of Ham Tin, Tai Long Wan under application No. A/SK-TLW/6, which was subject to similar control as Pak Sha O in requiring the new Small Houses to be compatible with the existing village setting, whether there was effective mechanism to monitor the design of the Small Houses in the long term was unsure. From the minutes of meeting recording the consideration of that application, the monitoring role of the Antiquities and Monuments Office (AMO) on the construction and design details of the new Small Houses might be limited to the construction stage only;
- (d) for the long-term control of the building design, such as the subsequent change in colour of the houses, it had to be controlled through the land lease. However, it was not sure whether LandsD was prepared to stipulate such control in the Small House grant, and whether the Small House grant in the form of building licence for Small House development on private land could also be subject to those development restrictions under a private treaty grant for Small House development on government land. While LandsD had published guidance note on how to build a Small House, that information was confined to mainly the structural design aspect but not on architectural design or colour scheme; and
- (e) he objected to the proposed amendments to the draft OZP as they still failed to ensure how the village expansion area in Pak Sha O would be in harmony with the surroundings, and supported the proposal of F1 to remove the “V” zone from the draft OZP. The area zoned “V” should be rezoned to a more restrictive zoning, such as “AGR(2)”, with the planning intention to conserve agricultural land and areas of scenic value.

R524 – The Professional Commons

17. With the aid of a PowerPoint presentation, Dr Robin Bradbeer made the following main points:

- (a) she was the Secretary of The Professional Commons and the Convener of The Professional Commons' Policy Committee on Country Park Enclaves;
- (b) the Pak Sha O River Valley, comprising Pak Sha O and Hoi Ha, was an integrated ecosystem. It also included the Hoi Ha Wan Marine Park. The ecology of Pak Sha O should not be considered in isolation as any ecological impact on Pak Sha O would affect other parts of the valley. The experts of The Professional Commons had been studying the Pak Sha O and Hoi Ha areas for over 25 years;
- (c) in August 2013 when the Hoi Ha OZP was prepared, they recommended the enclaves of Hoi Ha and Pak Sha O be designated as Country Park. A report providing detailed analysis of the ecology of the surrounding areas had been submitted to the Government for consideration;
- (d) in July 2016 when the representations and comments in respect of the Pak Sha O OZP were considered, they presented their objection to the draft OZP to the Board, highlighting the connectivity between Pak Sha O and Hoi Ha and the implications of the proposed zonings at Pak Sha O on the Hoi Ha Wan Marine Park, in particular the destruction of corals owing to pollution from mainly agricultural and site clearing operations;
- (e) as in the OZPs for other country park enclaves, the designation of the "V" zone on the Pak Sha O OZP would only benefit the developer, but would be detrimental to the local indigenous villagers, the endangered species and the environment. The Pak Sha O River Valley was home to many endangered and protected species. Critically endangered species, such as Chinese pangolin, were already affected by the developments and activities permitted under the OZP. Other species, such as porcupine,

were rapidly reducing in numbers;

- (f) in December 2015, some developers cleared vegetations in Pak Sha O and Hoi Ha for surveying. It was also noted that doses of fertiliser which polluted the nearby streams were regularly applied to the restored farmland in Pak Sha O. Some houses along the beach front at Hoi Ha village also pumped sewage into the Hoi Ha Wan Marine Park continuously. In January 2016 when the seasonal rain came, the fertiliser, sewage and the topsoil from the cleared land were all washed into the bay and the Hoi Ha Wan Marine Park became hypoxic, resulting in the death of many marine life;
- (g) the wetland in Pak Sha O used to provide constant collection and delivery of fresh water to Hoi Ha Wan. However, the agricultural activities on the wetland had increased the amount of nutrient pollution flowing down the stream, and contributed to the increase in algae levels, reduction of coral cover and dying of fish and sea horses at Hoi Ha Wan;
- (h) over the past six months, more and more confirmed sightings of endangered or protected marine mammals, such as dolphins, had been reported in the Hoi Ha Wan Marine Park as corroborated by scientific research data. The marine scientists were not sure why that was happening. It might be due to the disturbances to their existing habitats around the South China coast by the works of the Hong Kong-Zhuhai-Macao Bridge and other reclamation works. As such, anything that might adversely affect the Hoi Ha Wan Marine Park would now affect not only corals, fish and sea horses but also the marine mammals; and
- (i) The Professional Commons recommended the entire enclave of Pak Sha O be zoned as “Conservation Area” (“CA”) pending its full integration into the surrounding Country Park. A full environmental impact assessment (EIA) should be carried out along the Pak Sha O River Valley before any OZP should be approved. Before the carrying out of the EIA, no

planning permission for building in the “V” zone and no clearance of land for agricultural or other purposes should be granted. A ‘no-take’ zone for the Hoi Ha Wan Marine Park should be implemented immediately. The entire Pak Sha O River Valley, including the enclaves of Pak Sha O and Hoi Ha, should be given the “Site of Special Scientific Interest” status as soon as practical, taking into account the diversity and habitats of protected and endangered species in the whole area.

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

R533/C10 – Kwan Long Hei Matthew

R1230 – Wong Suk Ki

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

- (a) he was one of the researchers of the book entitled “A Living Space: The Homes of Pak Sha O” which was published by the Kaitak, Centre for Research and Development in 2015. The book was to tell the stories of people living in the village of Pak Sha O;
- (b) the publication of the book had aroused people’s interest in Pak Sha O and many local people paid visit to the village afterwards. It had demonstrated that Hong Kong people were indeed very interested in the local history and the preservation of the unique built heritage. People who had visited Pak Sha O would be amazed by the spectacular landscape and integrity of the well-preserved Hakka village cluster, which was attributable to the efforts made by the residents in preserving the houses. Although Hoi Ha village nearby was also a Hakka village, people would not find the village houses in Hoi Ha unusual as they lacked a distinctive architectural style;
- (c) historic buildings should be preserved in their entirety together with their surrounding areas, otherwise the historical ambience of the place would be lost. He quoted the preservation of Tsui Sing Lau Pagoda, which was a declared monument in Ping Shan, as an example. The Pagoda was

originally built with a *fung shui* pond in the foreground. Although the structure of the Pagoda had been preserved intact, the pond was filled and turned to car park and other rural uses which were incompatible with the monument. As regards Pak Sha O, the indigenous villagers founded their village in the current upland location and used the lowland area to the north, which was close to streams, for farming. If “V” zone was designated in that northern area for development of new Small Houses, the historical ambience of Pak Sha O would be spoiled and the streams would very likely be polluted;

- (d) in the last hearing of the representations and comments when the village representative of Pak Sha O was asked by a Member about the estimated number of emigrant villagers who might return to live in Pak Sha O, the village representative could not provide a clear figure and only roughly indicated that there were more than 200 male villagers of Pak Sha O who were over the age of 18 and who might demand for Small Houses. When he studied in the United Kingdom, he knew a family living there whose members were indigenous villagers of Pak Sha O. When he asked the younger members of the family whether they had any plan to move back to live in Pak Sha O, their answer was negative. Noting that the younger generations of the emigrant villagers should have already integrated with the overseas communities, he wondered whether the claimed Small House demand from the emigrant villagers of Pak Sha O was genuine. He expected that the future residents in the “V” zone were mostly not the indigenous villagers of Pak Sha O. The designation of the “V” zone might only benefit the developer who had already acquired most of the lots in the “V” zone;
- (e) the Hong Kong Tourism Board had been promoting the Hoi Ha Wan Marine Park to overseas visitors for its beauty and biodiversity. If more Small Houses were allowed to be built in the upstream area of Pak Sha O, more pollution to the marine environment of Hoi Ha Wan would be anticipated and Hoi Ha Wan would no longer be a tourist attraction; and

- (f) the Board should rethink whether the “V” zone which could spoil the ambience of the existing village setting of Pak Sha O and the high ecological and landscape quality of Hoi Ha Wan should be designated on the Pak Sha O OZP.

R528 – Christophe Barthelemy

19. With the aid of presentation slides, Mr Christophe Barthelemy made the following main points:

- (a) he was an architect and had lived in Pak Sha O before. He objected to the designation of “V” zone on the Pak Sha O OZP as it would facilitate fraud and contradict the planning intention of the OZP;
- (b) he had previously presented evidence to the Board that there were suspicious land transactions and possible fraud in Pak Sha O since 2009. The land in the “V” zone was controlled by a developer who had sub-divided the agricultural lots by way of deed polls into small plots of land for building purpose. Fourteen Small House grant applications on the sub-divided plots of land had been submitted to LandsD. The Board should urge the Government to do a due diligence to investigate the allegation of possible fraud and postpone all planning decisions until such investigation was completed;
- (c) the outstanding vernacular Hakka village of Pak Sha O was recognised through the unobstructed views from the two access points to the northeast and west of the village. The valley of Pak Sha O had a pristine setting, manifesting a state of visual continuity, harmony and ecological equilibrium. However, if about 30 Small Houses were to be built in the “V” zone, the views from the access points towards the existing village cluster would be obstructed. The extensive site formation works associated with the Small House development would have adverse impact on the EIS. The harmonious setting and visual continuity of the area would be lost and the ecology would be disturbed. That contradicted the

planning intention of the OZP to preserve the outstanding vernacular quality of Pak Sha O; and

- (d) to restore the village setting and ecological equilibrium, he suggested to rezone the current “V” zone to “AGR”, and designate the area to the south of the existing village cluster and to the north of the church as “V” for the development of some 15 new Small Houses subject to planning approval, with control on architectural design and requirements for EIA and heritage impact assessment. The height of the new Small Houses in the proposed “V” zone should be restricted to two to three storeys to blend in with the existing village fabric.

R529 – Ruy Barretto

20. A written submission summarising Mr Ruy Barretto’s presentation was circulated for Members’ reference at the request of Mr Barretto. He also deposited a copy of his previous submission in 2016 and a copy of the District Court’s Reasons for Verdict (DCCC 25/2015) on a case regarding the ‘Transfer of Small House’ in Sha Tin to supplement his presentation for Members’ reference.

21. Mr Barretto made the following main points:

- (a) he had been involved in nature and heritage conservation for more than 40 years;
- (b) he appreciated that the Board had tightened the control on the development of Small Houses in Pak Sha O. However, the draft OZP had created an opening for abuse of the Small House Policy in Pak Sha O. The Board and LandsD should investigate and enforce any abuse and fraud under the Small House Policy;
- (c) the “V” zone designated on the farmland to the north of Pak Sha O village was not appropriate as it was located in marshy wetland and the designation was not justified on any technical basis. It was only the

result of a defective compromise for protecting the existing heritage houses of Pak Sha O. As such, detailed EIA studies should be required from the applicants for Small House development in the “V” zone to enable the Board to decide on the applications and impose suitable approval conditions. Any breaches of the approval conditions should be enforced by the Board;

- (d) it was unacceptable to expect a group of trees between the “V” and “V(1)” zones to serve as a buffer for separating the new Small Houses on the new “V” zone from the old village. Unless there were specific planning conditions, the new Small Houses in front of the old village and by the footpath would be a blot on the cultural landscape of Pak Sha O;
- (e) the Burra Charter as the international principles adopted by AMO on historic building assessment required the conservation of Places of Cultural Significance, and Pak Sha O should be one of such places. Compliance with the Burra Charter could be done by removing the “V” zone for new Small House development which would degrade the cultural significance and setting of the old village. Otherwise, there should be reinforced protection in the Notes for the “V” zone by adding specific conditions and criteria to require new developments to be of similar design, architecture and scale as the vernacular Hakka village of Pak Sha O, with the objective of protecting Pak Sha O as a place of cultural significance together with its setting;
- (f) the Board’s decision of July 2016 to maintain the “V” zone on the draft OZP after the hearing of representations and comments had caused a higher risk of fraud against the Small House Policy. Hence, special conditions and criteria were needed to allow the Board to detect and refer applications which were suspicious to the enforcement authorities for follow up action. The activities relating to transfer of Small House right were considered by the Court in DCCC 25/2015 as frauds. The Board had considered that since it could not prejudge whether Small House applications had involved fraudulent activities, it would allow the “V”

zoning in the OZP despite the suspicious acts and leave any possible enforcement to others. That was a failure of the Board to carry out its statutory planning duty;

- (g) having made the decision to designate the “V” zone, the Board had the duty to work out procedures, criteria and controls to investigate, report and prevent fraud in respect of the planning applications for Small House development in the “V” zone. Unless the applicants could prove and the relevant departments were assured that the applications were genuine and based on land genuinely owned by the applicants, there was no proof of genuine need for Small House development in the “V” zone and the applications should be rejected; and
- (h) some improvements and tightening up of the Notes of the draft OZP were proposed, such as reducing the building height restriction of the “V” zone, deleting ‘House’ or ‘Small House’ use from Column 2 of the “Green Belt” (“GB”) zone, and requiring the applicants for Small House development in the “V” zone to conduct EIA and obtain approval of AMO prior to submission of the planning applications.

R1390 – Nicola Newbery

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

- (a) he was a resident of Pak Sha O. He and his wife had rented a house in the village since 1995;
- (b) there was a lady living in the village in the late 1990s, who was an indigenous villager of Pak Sha O. After that lady had passed away, there were no more indigenous Hakka people living in the village. He knew that many indigenous villagers had sold their Small House right to a developer who was assembling land in Pak Sha O in the past few years. He doubted if the claimed 200 male villagers would return to live in Pak Sha O, otherwise they would not have sold their Small House right to the

developer;

- (c) the flooding in Pak Sha O was very acute in the rainy seasons. Sometimes, the odour of sewage could be smelt due to the seepage from septic tanks when the ground was damp. If more septic tanks were built in the “V” zone for the new Small Houses, the potential seepage problem would become very serious at the time of heavy rain, affecting the hygienic condition in the area;
- (d) the new Small Houses in typical cubic built form would not be compatible with the traditional architectural style of the existing village houses in Pak Sha O; and
- (e) the access to the “V” zone would be a problem. Currently, the villagers had to walk along a village path for about 10 minutes to go to Hoi Ha Road which was at an upper level, and the end of the path was on a relatively steep slope. As public transport services in Hoi Ha Road was very limited, residents of the new Small Houses in the “V” zone would probably rely on private cars for travelling. The provision of a vehicular access road to the “V” zone might become necessary but the level difference between Hoi Ha Road and the “V” zone had to be resolved first.

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

Conditions of Pak Sha O

24. A Member asked Mr Thomas Edwin Goetz (representative of R1390) whether the existing village of Pak Sha O was wholly inhabited by foreign people without any local Hong Kong residents. In response, Mr Goetz said that he had lived in Pak Sha O for around 20 years. There were about 21 residents living in Pak Sha O village currently, with Cantonese and Hakka families, but none of the residents was indigenous villager of Pak Sha O.

25. In response to a Members' question on whether the "V" zone in Pak Sha O was originally a wetland, Ms Jessica H.F. Chu, DPO/STN, said that the area of the "V" zone used to be a paddy field with wet crop farming activities. Before the publication of the draft DPA Plan, some soil ploughing activities had been carried out in that location. The area was now used for agricultural purpose.

Control of Small House Development in the "V" Zone

26. Some Members raised the following questions:

- (a) whether R529's suggestion of requiring the submission of EIA for Small House development in the "V" zone was implementable, and whether the Board could require an EIA be submitted together with a planning application in accordance with the standards as required under the Environmental Impact Assessment Ordinance (EIAO);
- (b) under the purview of the Town Planning Ordinance, whether the Board could request an applicant for Small House development in the "V" zone to go through the EIA process under the EIAO and obtain an environmental permit, and to seek approval for development from AMO, as suggested by R529;
- (c) clarification on what the 'Tai Long Wan approach' was in terms of control of Small House development in the "V" zone as referred to by some representers or their representatives; and
- (d) whether there were specific fire services requirements for development of Small Houses in the "V" zone, noting that there was no vehicular access to the area.

27. In response, Ms Jessica H.F. Chu made the following points:

- (a) upon the proposed amendments to the draft OZP, planning permission from the Board would be required for Small House development within

the “V” zone. As Pak Sha O fell within the upper indirect water gathering ground and there was an EIS near the “V” zone, the applicant for Small House development in the “V” zone would likely be required to conduct various technical assessments to demonstrate to the relevant government departments that the Small House development would not entail unacceptable impacts on the environment. The Board might also impose approval conditions requiring the applicant to submit technical assessments to the relevant departments for approval when approving a planning application. Since the development of a Small House in Pak Sha O was not a designated project under the EIAO, the environmental assessment, if required to be conducted, might not be as detailed as that required under the EIAO;

- (b) in view of the historic setting of the existing village cluster of Pak Sha O and the high ecological and landscape value of the area, relevant government departments including AMO and the Environmental Protection Department (EPD) would be consulted on any submitted planning applications for Small House development in the “V” zone. The applicant would be required to submit the necessary technical assessments to demonstrate that the proposed Small House development would not generate adverse impacts on the surrounding environment. The Board would take into account the comments of the government departments and other relevant planning considerations to decide whether the application should be approved or not;
- (c) in view of the significant heritage value and natural landscape setting of the existing villages in Tai Long Wan, planning permission from the Board was required for Small House development in the “V” zone of the Tai Long Wan OZP. On 13.1.2017, the planning application (No. A/SK-TLW/6) for development of five proposed Small Houses in the “V” zone at Ham Tin, Tai Long Wan, which was a proposed Grade 1 historic village (subsequently confirmed Grade 2), was approved with conditions by the Rural and New Town Planning Committee (RNTPC) of the Board. When considering the application, the RNTPC had thorough discussions

on the detailed building design requirements and the long-term monitoring mechanism for them. The case of Pak Sha O was slightly different from that of Tai Long Wan as the new “V” zone of Pak Sha O which was intended for new Small House development in a location separated from the old village cluster, whilst the proposed Small Houses in Ham Tin, Tai Long Wan were located within the historic village; and

- (d) the fire services requirements for proposed Small Houses development in the “V” zone would be advised by the Fire Services Department (FSD) when they provided comments on the planning applications submitted by the applicants. Related approval conditions might be imposed by the Board if considered necessary.

28. A Member asked Mr Ruy Barretto (R529) the following questions:

- (a) why a building height of three storeys in the “V” zone was not acceptable to him, and why only building height was considered important but not other factors, such as whether the design of the new Small Houses was in harmony with the vernacular Hakka village setting; and
- (b) what aspects of EIA and heritage conservation requirements he would suggest to be strengthened in the Notes of the OZP for the “V” zone.

29. In response, Mr Ruy Barretto made the following points:

- (a) his suggestion was for the Board to impose approval condition requiring the submission of EIA according to the standards of the Technical Memorandum (TM) on EIA Process issued under the EIAO when granting planning permission for Small House development in the “V” zone, as the TM had set out the detailed principles, procedures, guidelines, requirements and criteria for conducting EIA. Heritage impact assessment was one of the aspects of assessment required in the TM. The applicant for Small House development should satisfy the Board that he had gone through the TM process in carrying out the technical

assessments for his development proposal; and

- (b) to allow the new Small Houses in the “V” zone to be of three storeys in height was not appropriate as a three-storey building would be taller than the height of the existing trees in the area and not compatible with the existing old Hakka village houses which were typically of one to two storeys. Specific conditions should be added to the Notes for the “V” zone requiring the new developments to be of similar design, architecture and scale as that of the vernacular Hakka village.

General Control of ‘House’ Development in the OZP

30. A Member asked the following questions:

- (a) whether ‘House’ was a Column 2 use in the land use zones of the draft OZP including “V”, “V(1)”, “Government, Institution or Community” (“G/IC”), “AGR”, “GB” and “CA” zones;
- (b) why ‘House’ use would be put under Column 2 of the “G/IC”, “AGR” and “GB” zones in the OZP, and whether ‘House’ use could be deleted from the Notes of those zones; and
- (c) if ‘House’ was a Column 2 use in the “GB” and “AGR” zones, whether the Board was bound to follow the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) to approve planning applications for Small House development in the “GB” and “AGR” zones that fell within the village ‘environs’ when land within the “V” zone had been used up.

31. In response, Ms Jessica H.F. Chu made the following points:

- (a) Small House development in the “V”, “V(1)”, “G/IC”, “AGR”, “GB” zones and redevelopment in the “CA” zone of the Pak Sha O OZP required planning permission from the Board as ‘House’, ‘House (NTEH

only)' or 'House (Redevelopment only)' was a Column 2 use in these zones;

- (b) similar to other rural OZPs, 'House' or 'House (NTEH only)' use was put under Column 2 of the "G/IC", "AGR" and "GB" zones in the Notes of the draft Pak Sha O OZP. Upon the proposed amendments to the draft OZP, rebuilding of NTEH and replacement of existing domestic building by NTEH, which were originally always permitted in the "G/IC", "AGR" and "GB" zones as provided for under the Covering Notes of the OZP, also required planning permission from the Board in these three zones; and
- (c) if the villagers wanted to build Small Houses in the "GB" and "AGR" zones, they needed to submit planning applications to the Board. Even if land within the "V" zone had been used up, the Board was not bound to approve the planning applications under such circumstances as the planning intention of the land use zone concerned, the Interim Criteria and other relevant planning factors should be taken into account and each application would be assessed on its individual merits.

32. The Member also asked Mr Ruy Barretto (R529) why he only suggested to delete 'House' or 'Small House' use from Column 2 of "GB" zone but not also from other land use zones such as "AGR". In response, Mr Ruy Barretto said that in view of the special heritage setting of Pak Sha O area, it was inappropriate to have any Small Houses built in the "GB" and "AGR" zones.

Land Administration on Small House

33. Some Members raised the following questions:

- (a) whether the building height of a Small House could be less than 3 storeys, as suggested by R529, under the Small House Policy;
- (b) noting that specific development requirements could be imposed in a land

grant for building of a Small House on government land, whether the same requirements could be imposed in a building licence for building of Small House on private land; and

- (c) for Small House development in the “V” zone of the Pak Sha O OZP, whether the granting of planning permission by the Board was a prerequisite for LandsD to approve a Small House grant.

34. In response, Ms Jessica H.F. Chu made the following points:

- (a) a NTEH, including Small House, was subject to restrictions on its maximum dimensions, namely a maximum building height of 3 storeys and a maximum roofed-over area of 65.03m². Houses built within such dimensions could be regarded as NTEHs; and
- (b) specific requirements, if considered necessary by the concerned government departments, could be imposed on the Small House grant no matter the Small House was to be built on government land or private land. Since planning permission would be required for Small House development in the “V” zone, the approval conditions, if any, imposed by the Board in the planning permission would be recommended for incorporation in the Small House grant for development control purpose.

Woodland between the “V” and “V(1)” Zones

35. A Member asked about the land status of the woodland between the “V” and “V(1)” zones which was intended to separate the new village area from the old village cluster and the conditions of the trees in that woodland.

36. In response, Ms Jessica H.F. Chu said that the woodland between the “V” and “V(1)” zones covered mainly private land and the vegetation there was rather dense, though she had no detailed information on the height of the trees in the woodland.

37. In response, Mr Christophe Barthelemy (R528) said that the woodland between the “V” and “V(1)” zone was actually a piece of low-quality shrubland and the vegetation there was not dense. As that shrubland fell on private land, the vegetation might be cleared by the landowner easily and it would not be able to perform the intended buffering function for separating the new village from the old.

Vehicular Access to the “V” Zone

38. Some Members raised the following questions:

- (a) whether a vehicular access would be provided or allowed to be built to serve the “V” zone which would accommodate about 30 new Small Houses in future; and
- (b) if a vehicular access to the “V” zone had to be built, whether it would pass through some private land.

39. In response, Ms Jessica H.F. Chu made the following points:

- (a) it was estimated that the “V” zone could accommodate about 28 new Small Houses. The Government had no plan to construct a new vehicular access to serve the “V” zone. Vehicles could only access Hoi Ha Road currently, from where people had to walk along a village path branching off from the road to Pak Sha O village. It was expected that the future residents in the “V” zone would follow the same mode of access; and
- (b) the construction of any proposed private vehicular access to the “V” zone required planning permission from the Board. If such an application was to be made, the applicant might propose the appropriate routing of the access and see whether government land or private land would be affected. The submission of various technical assessments to demonstrate the feasibility of the proposal was also necessary.

40. In response to the Chairman's enquiry, Mr Thomas Edwin Goetz (representative of R1390) said that officers from FSD had inspected Pak Sha O village several times. The access to the village was a 10-minute walk on a footpath from Hoi Ha Road. About two years ago when his wife had an accident at home, the ambulancemen had to park the ambulance at Hoi Ha Road and walk down the footpath to the village to bring her wife to the ambulance. Villagers of Pak Sha O were parking their cars at Hoi Ha Road but it was not legal. If no vehicular access would be provided to the "V" zone, he wondered how building materials could be transported to the sites for building new Small Houses.

41. In response to the Chairman's enquiry, Mr Christophe Barthelemy (R528) said that any vehicular access road to be constructed between Hoi Ha Road and the "V" zone would need to pass through both government land and private land. The road works would involve activities such as land filling and land excavation, which would create silting to the EIS and adverse impact on Hoi Ha Wan downstream. The designation of the "V" zone would necessitate the provision of an access road, which would require land formation and construction and would result in destruction of habitats.

42. Mr Nip Hin Ming Tony (R531) also made the following responses:

- (a) it was common in other rural villages that the villagers would construct vehicular access roads to their villages illegally if roads were not already in place nor provided by the Government. There were such cases in Tung Chung and Sai Kung. Even if LandsD had erected bollards, fence and barrier gates to stop people from using the illegal roads on government land, people would damage the barriers and continue to use the roads. The reporting of the cases to the police would not help; and
- (b) the villagers and village representatives might also request the Home Affairs Department (HAD) to construct vehicular access roads for them as local public works. In a recent case in Ma Tso Lung, the villagers had requested HAD to turn a natural stream in the "AGR" zone to a man-made channel. Although that case involved diversion of stream, no planning application was submitted to the Board as it was regarded as local public works coordinated by Government which was always permitted under the

Covering Notes of the OZP. He expected that the future residents in the “V” zone would also request HAD to construct a vehicular access for them as local public works and the Board would have no control of that.

43. As Members had no further question to raise, the Chairman said that the hearing procedures were completed. The Chairman thanked the government representatives as well as the further representer, representers, commenters and their representatives for attending the meeting and said that the Board would deliberate on the further representations in their absence and would inform the further representers, representers and commenters of the Board’s decision in due course. The government representatives, the further representer, representers, commenters and their representatives left the meeting at this point.

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

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

44. As the applicant’s representatives of Application No. A/NE-LT/579 under Agenda Item 4 had arrived, Members agreed to postpone the deliberation of Agenda Item 3 and consider Agenda Item 4 first.

[Dr C.H. Hau arrived to join the meeting at this point.]

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LT/579

Proposed House (New Territories Exempted House – Small House) in “Agriculture” Zone,
Lot 720 in D.D. 10, Ng Tung Chai Village, Tai Po, New Territories
(TPB Paper No. 10245)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

Ms Jessica H.F. Chu - District Planning Officer/Shu Tin, Tai Po and
North (DPO/STN), PlanD

Mr Ryan C.K. Ho - Assistant Town Planner/Tai Po 3, PlanD

Mr Hui Kwan Yee] Applicant's representatives
Mr Koo Koon Fong Ringo]

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

47. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), justifications provided by the applicant, and planning considerations and assessments as detailed in TPB Paper No. 10245.

48. The Chairman then invited the applicant's representatives to elaborate on the review application. Mr Hui Kwan Yee made the following main points:

(a) the applicant was an indigenous village of Ng Tung Chai. He wished to build his Small House in the village to live with other clansmen;

(b) although PlanD indicated that there was still land available within the subject "Village Type Development" ("V") zone for Small House development, the applicant owned no land within the "V" zone. He only had the land of the application site which belonged to his family;

- (c) the proposed Small House development should not be regarded as an extension of village development beyond the “V” zone as there were existing village houses next to the site. The approval of the application would not set an undesirable precedent for similar applications in the future;
- (d) the site was currently overgrown with weeds. The proposed Small House development could improve the environmental condition of the site;
- (e) the proposed development would not generate sewage impact as the sewerage system of the proposed Small House could be readily connected to the newly constructed public sewer along the footpath to the immediate east of the site; and
- (f) most government departments, including the Lands Department (LandsD) and the Home Affairs Department which were responsible for processing the Small House grant application, had no objection to the application. The applicant was aware of the landscaping concerns of PlanD in relation to the impact of the proposed development on some fruit trees, and was willing to plant more trees to improve the landscape of the area. The applicant was also willing to comply with any approval conditions imposed by the Board.

49. Mr Koo Koon Fong Ringo, Indigenous Inhabitant Representative of Ng Tung Chai, continued to make the following main points:

- (a) the site was all along not used as farmland. It had been concrete-paved and used as a drying ground for crops for many years;
- (b) to his knowledge, the site which was inherited from the applicant’s father was the only piece of land owned by the applicant; and
- (c) the 10-year Small House demand forecast for Ng Tung Chai that he had provided to LandsD was around 40 to 45. He hoped the Board could

approve the application so as to address the long-term shortfall of Small House sites in the village.

50. As the presentations of DPO/STN and the applicant's representatives were completed, the Chairman invited questions from Members.

51. Some Members raised the following questions:

- (a) what the nature of the shrine that existed on the site and the number of such shrines in the village were;
- (b) whether there was any standard on the separation distance between a village house and a religious place of worship;
- (c) whether there was any Small House grant application being processed on the government land within the "V" zone; and
- (d) whether the applicant would consider making use of the government land within the "V" zone for his Small House grant application instead of using his own land outside the "V" zone.

52. In response, Mr Hui Kwan Yee and Mr Koo Koon Fong Ringo made the following main points:

- (a) the Small House development would be located adjacent to the shrine which would not be affected by the proposed development. It was for the worship of *Pak Kung*. There were totally four shrines of *Pak Kung* in the village, two of them were outside the "V" zone. Some religious ceremonies of the village would be held on the open ground in front of the shrines;
- (b) the villagers generally had a tacit understanding on which part of their village should be kept for religious or *fung shui* purpose and would not be developed. If the villagers considered that the religious or *fung shui*

place of the village was very important, they might even file a registration with the District Office to honour the status of the land and no villagers would be allowed to build Small House on that land. For the subject application, the use of the applicant's own land for the proposed Small House development was supported by all other villagers; and

- (c) a plan (i.e. Drawing R-1 of the Paper) had been submitted to the Board to show the pattern of land ownership within the "V" zone of Ng Tung Chai. While villagers might make use of the vacant government land within the "V" zone for Small House development, it was the villagers' understanding that the government land within the village would only be allocated to those who did not own any private land for building their Small Houses. If the number of eligible villagers exceeded the number of available Small House sites on government land, the villagers had to draw lots to determine who could use the government land for their Small House grant applications.

53. Ms Jessica H.F. Chu, DPO.STN, also made the following responses:

- (a) there was some government land within the "V" zone but no Small House grant application was being processed on government land; and
- (b) there was no standard on separation distance between a village house and a religious place. It would depend on whether the villagers would accept the building of houses close to their traditional religious places.

54. As Members had no further questions, the Chairman said that the hearing procedures for the review application were completed. The Board would further deliberate on the review application in the absence of the applicant's representatives and inform the applicant of the Board's decision in due course. The Chairman thanked the representatives of PlanD and the applicant for attending the meeting. They left the meeting at this point.

[Miss Winnie W.M. Ng left the meeting at this point.]

Deliberation

55. A Member considered that as there was still sufficient land available within the “V” zone for development, there was no strong planning justification to warrant a departure from the RNTPC’s decision to reject the application. It should be noted that the appeal for a similar application (No. A/NE-LT/471) to the northeast of the site within the same “AGR” zone had also been dismissed by the Town Planning Appeal Board for the reason of no general shortage of land within the “V” zone. The applicant’s justification of not owning land within the “V” zone did not warrant a favourable consideration of the application by the Board.

56. A Member did not support the application as the religious culture of the village should be respected and the proposed Small House was too close to the place of worship of the village.

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

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” zone, which is 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 is no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Ng Tung Chai; and
- (c) land is still available within the “V” zone of Ng Tung Chai which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within

the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

[Dr C.H. Hau left the meeting temporarily at this point.]

Agenda Item 3 (cont'd)

[Closed Meeting (Deliberation Session)]

Consideration of Further Representations on Proposed Amendments to the Draft Pak Sha O Outline Zoning Plan (OZP) No. S/NE-PSO/1 Arising from the Consideration of Representations and Comments made on the Draft Pak Sha O OZP No. S/NE-PSO/1 (TPB Paper No. 10242)

[The item was conducted in Cantonese.]

Deliberation Session

58. The Chairman noted that in some of the further representations/representations/comments the arguments were that the designation of the “V” zone at Pak Sha O was not appropriate, or that more stringent control should be imposed for the development of new Small Houses in the “V” zone. He then invited Members to express their views.

59. A Member asked whether, if there were provisions to allow applications for planning permission for Small House development in the “GB”, “AGR” and “G/IC” zones, the Board would be bound to approve such applications in the future when land for Small House development in the “V” and “V(1)” zones at Pak Sha O had been used up. To safeguard against this possibility, the Member wondered if it would be necessary to further amend the Notes of the OZP by replacing ‘House’ use in Column 2 of the “GB”, “AGR” and “G/IC” zones by ‘rebuilding of NTEH and replacement of existing domestic building by NTEH only’.

60. The Vice-chairman and some Members considered that the general planning intention to preserve the existing vernacular Hakka village setting of Pak Sha O had been clearly stated in the OZP. As regards the provisions in the Notes of the OZP to allow

applications for planning permission for 'House' or 'NTEH' development in the "GB", "AGR" and "G/IC" zones, there were similar provisions as in other rural OZPs, and the Board would unlikely be bound to approve such planning applications as the planning intention of the land use zone concerned, the compatibility with the surrounding environment in terms of land use, scale and design and the potential impacts of the proposed development should all be taken into consideration when assessing the applications, and each case would have to be considered on its individual merits. There would thus be no need to amend the Notes of the "GB", "AGR" and "G/IC" zones.

61. Some Members made the following points:

- (a) the Board had considered the representations and comments thoroughly and balanced all the relevant factors before proposing the amendments to the "V" zone to partially meet the representations. There was no new information provided by the further representers, representers and commenters to justify further changes to the proposed amendments;
- (b) with the proposed amendments to the draft OZP, any NTEH or Small House development in the "V" zone would require planning permission from the Board. The "V" zone for village expansion was designated in an area separated from the existing village cluster which was covered by the "V(1)" zone. It had balanced the needs for preservation of the old village cluster and new Small House development. The Explanatory Statement of the OZP had stated that the new NTEH development in the "V" zone should be in harmony with the surroundings and should avoid possible adverse visual impact on the vernacular Hakka village setting. Such criteria would form the basis for consideration of planning applications for Small House development in the "V" zone by the Board in future;
- (c) the suggestions made by some representers on stipulating more stringent development control measure in the Notes of the "V" zone, such as reducing the building height restriction and specifying the requirements on submission of EIA in accordance with the EIAO process and application

to AMO for development approval, were considered not necessary as the Board should have the flexibility to consider the technical assessments necessary for processing and considering the planning applications submitted to it. As comments from the relevant government departments on the planning applications would be sought according to the prevailing practice, there were already sufficient opportunities for the potential adverse impacts of the development proposals be addressed;

- (d) in the recent approval of five proposed Small Houses in the “V” zone of Ham Tin, Tai Long Wan under application No. A/SK-TLW/6, the Board had thorough discussions on the compatibility of the new Small Houses with the existing village houses in terms of design and disposition. The experience would be relevant to the consideration of future planning applications for Small House development in Pak Sha O; and
- (e) the designation of the “V” zone did not imply a new vehicular access to the “V” zone would be provided.

62. As regards R529’s suggestion on requiring the applicant of section 16 planning application to submit EIA and obtain environmental permit under the EIAO, Mr C.W. Tse, Deputy Director of Environmental Protection (1), clarified that the issue of environmental permit had to follow the provisions of the EIAO and the Board was not in a position to require an applicant of a planning application to go through the EIAO process if the proposed development was not a designated project under the EIAO. Nevertheless, EPD would provide comments on the planning applications circulated to them in accordance with established practice.

63. Members generally considered that the major grounds of the further representations had been addressed by the departmental responses as detailed in the Paper and the presentations made by the government representative at the meeting.

64. After deliberation, the Board noted the supportive view of F2, and decided not to uphold F1 and the remaining view of F2, and agreed that the draft Pak Sha O OZP should be amended by the proposed amendments for the following reasons:

- “(a) the designation of the “Village Type Development” (“V”) zone in an area to the north of Pak Sha O Village is considered appropriate, which has balanced the needs for preservation of historic settlement at Pak Sha O and Small House development. The “V” zone boundary has been drawn up having regard to the village ‘environs’, Small House demand forecast, outstanding Small House application, local topography and site constraints. 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. Any new development of New Territories Exempted Houses within the “V” zone would be subject to planning control through the planning permission system; and
- (b) planning permission is required for land filling activities in the “V” zone, the purpose of which is to enable the Town Planning Board to consider the potential flooding risk of any proposed development. Each application will be considered on its individual merits.”

[Mr Stephen H.B. Yau and Mr Alex T.H. Lai left the meeting during the Deliberation Session of Agenda Item 3.]

[Mr Ivan C.S. Fu, Ms Janice W.M. Lai, Mr Patrick H.T. Lau, Dr Frankie W.C. Yeung, Mr Thomas O.S. Ho and Mr Stephen L.H. Liu left the meeting and Dr C.H. Hau returned to join the meeting at this point.]

Agenda Items 5 and 6

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LT/590

Proposed House (New Territories Exempted House – Small House)

in “Agriculture” Zone, Lots 1212 S.A ss.1 and 1214 S.A in D.D. 19,

Lam Tsuen San Tsuen, Tai Po, New Territories

Review of Application No. A/NE-LT/591

Proposed House (New Territories Exempted House – Small House) in “Agriculture” and “Village Type Development” Zones, Lots 1212 S.A ss.2 and 1214 S.B in D.D. 19, Lam Tsuen San Tsuen, Tai Po, New Territories
(TPB Paper No. 10246)

[The items were conducted in Cantonese.]

65. Members agreed that since the two applications were for the same use, the application sites (the sites) were located adjacent to one another on the same “Agriculture” (“AGR”) zone and they were represented by the same representative, the two applications could be considered together.

66. The following representatives of the Planning Department (PlanD) were invited to the meeting at this point:

Ms Jessica H.F. Chu - District Planning Officer/Shu Tin, Tai Po and North
(DPO/STN)

Mr Ryan C.K. Ho - Assistant Town Planner/Tai Po 3

67. The Chairman extended a welcome and explained the procedure of the review hearing. Members noted that the applicants or their representative did not show up and agreed to proceed with the reviews in their absence. The Chairman then invited DPO/STN to brief Members on the review applications.

68. With the aid of a PowerPoint presentation, Ms Jessica H.F. Chu, DPO/STN, briefed Members on the background of the review applications including the consideration of the applications by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), justifications provided by the applicants, and planning considerations and assessments as detailed in TPB Paper No. 10246.

69. As the presentation of DPO/STN had been completed, the Chairman invited questions from Members.

70. A Member noted that in the current review applications that there was still sufficient land available within the subject “Village Type Development” (“V”) zone for Small House development, and asked why it was mentioned in paragraph 3.9 of the Paper that there was a general shortage of land in the concerned “V” zone to meet the Small House demand in the consideration of some previously approved similar applications. In response, Ms Jessica H.F. Chu, DPO/STN, said that the area of the subject “V” zone for Lam Tsuen San Tsuen had been increased in 2002 and hence more land was available for Small House development.

71. As Members had no further questions, the Chairman said that the hearing procedures for the review applications were completed. The Board would further deliberate on the review applications and inform the applicants of the Board’s decisions in due course. The Chairman thanked the representatives of PlanD for attending the meeting. They left the meeting at this point.

Deliberation

72. Members noted that the applicants had not provided any new grounds to support their review applications and did not attend review hearing to elaborate their cases. As there was no major change in the planning circumstances of the cases since they were rejected by the RNTPC, there was no strong planning justification to warrant a departure from the RNTPC’s decision.

73. After deliberation, the Board decided to reject the applications on review based on the following reasons for each application:

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention; and
- (b) land is still available within the “Village Type Development” zone of Lam

Tsuen San Tsuen and San Tsuen Lo Wai which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

Procedural Matters

Agenda Item 7

[Open Meeting]

Submission of the Draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan No. S/K15/24A under Section 8 of the Town Planning Ordinance to the Chief Executive in Council for Approval
(TPB Paper No. 10247)

[The item was conducted in Cantonese.]

74. The Secretary reported that the amendments to the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan (OZP) No. S/K15/24 involved rezoning of a site for public housing development by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA); and a site for private residential development atop the MTR Yau Tong Ventilation Building with MTR Corporation Limited (MTRCL) as the project proponent. Besides, the Board of Management of the Chinese Permanent Cemeteries (BMCPC) submitted a representation (R456). The following Members had declared interests in the item:

- | | |
|--|---|
| Mr Raymond K.W. Lee
(<i>as Director of Planning</i>) | - being a member of the Strategic Planning Committee (SPC) and the Building Committee of HKHA |
| Ms Karen P.Y. Chan
(<i>as Deputy Director of Lands (General)</i>) | - being an alternate member of the Director of Lands who was a member 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
Mr Thomas O.S. Ho
- Mr Ivan C.S. Fu
- Dr C.H. Hau
- Mr K.K. Cheung
Mr Alex T.H. Lai
- Mr Philip S.L. Kan
Mr Franklin Yu
- Mr Dominic K.K. Lam
- Professor S.C. Wong
- being a 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 a convenor of the Railway Objections Hearing Panel
 -] having current business dealings with HKHA and MTRCL
 -]]
 -]]
 - having current business dealings with MTRCL, and past business dealings with HKHA
 - having current business dealings with HKHA
 -] their firm having current business dealings with HKHA and MTRCL, and past business dealings with BMCPC
 - being a Board Member of BMCPC
 - having past business dealings with HKHA and MTRCL
 - having past business dealings with HKHA
 - being a member of the Advisory Committee for Accredited Programme of MTR Academy, and being the Chair Professor and Head of Department of Civil Engineering of the University of Hong Kong where MTRCL had

sponsored some activities of the Department before

Dr Lawrence W.C. Poon - his spouse being an employee of HD but not involved in planning work

75. Members noted that Mr H.F. Leung had tendered apologies for not being able to attend the meeting, and Ms Janice W.M. Lai, Mr Patrick H.T. Lau, Mr Stephen L.H. Liu, Mr Thomas O.S. Ho, Mr Ivan C.S. Fu and Mr Alex T.H. Lai had already left the meeting. As the item was procedural in nature, Members agreed that the other Members who had declared interests in the item should be allowed to stay in the meeting.

76. The Secretary briefly introduced the Paper. On 24.6.2016, the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP No. S/K15/24 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 456 representations and two comments were received. After giving consideration to the representations and comments under section 6B(1) of the Ordinance on 6.1.2017, the Board agreed to note the supportive representation, and decided not to uphold the remaining representations and not to propose any amendment to the draft OZP to meet the representations under section 6B(8) of the Ordinance.

77. Since the representation consideration process had been completed, the draft OZP was ready for submission to the Chief Executive in Council (CE in C) for approval.

78. After deliberation, the Board:

- (a) agreed that the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP No. S/K15/24A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP No. S/K15/24A at Annex III of the Paper as an expression of the planning intention and objectives of the

Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and

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

Agenda Item 8

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

79. There being no other business, the meeting was closed at 1:05 p.m.