

**Minutes of 1136th Meeting of the  
Town Planning Board held on 24.2.2017**

**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

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

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 Wilson Y.W. Fung

Dr C.H. Hau

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

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

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

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

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

Director of Planning  
Mr Raymond K.W. Lee

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

**Absent with Apologies**

Mr H.W. Cheung

Ms Janice W.M. Lai

Ms Christina M. Lee

Mr H.F. Leung

Mr K.K. Cheung

Mr Thomas O.S. Ho

Mr Stephen L.H. Liu

**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  
Ms W.H. Ho

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 1135<sup>th</sup> Meeting held on 10.2.2017

[The item was conducted in Cantonese.]

1. The minutes of the 1135<sup>th</sup> meeting held on 10.2.2017 were confirmed without amendments.

**Agenda Item 2**

[Open Meeting]

Matters Arising (MA)

[The item was conducted in Cantonese.]

(i) Pak Sha O Outline Zoning Plan (OZP) No. S/NE-PSO/1

2. The Secretary reported that the Town Planning Board considered the further representations on the proposed amendments to the draft Pak Sha O OZP No. S/NE-PSO/1 on 10.2.2017. On 22.2.2017, an email was received from a representer (R1390)'s representative providing supplementary information to the points he raised at the hearing session. The email was basically further elaboration to the oral submission made by R1390's representative at the hearing session. As it was received out of time, it should be treated as not having been made.

3. Members noted the receipt of the email and agreed that the Secretariat would reply to the sender accordingly.

(ii) Approval of Draft Outline Zoning Plans

4. The Secretary reported that on 7.2.2017, the Chief Executive in Council approved the following draft outline zoning plans (OZPs) under section 9(1)(a) of the Town

Planning Ordinance:

- (a) Tung Chung Valley OZP (renumbered as S/I-TCV/2);
- (b) Tung Chung Extension Area OZP (renumbered as S/I-TCE/2);
- (c) Tung Chung Town Centre Area OZP (renumbered as S/I-TCTC/22); and
- (d) Tsing Yi OZP (renumbered as S/TY/28).

5. Members noted that the approval of the above OZPs was notified in the Gazette on 17.2.2017.

(iii) Reference Back of Approved Outline Zoning Plans

6. The Secretary reported that on 7.2.2017, the Chief Executive in Council referred the following approved outline zoning plans (OZPs) to the Town Planning Board for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance:

- (a) Approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/14;
- (b) Approved Hung Lung Hang OZP No. S/NE-HLH/9;
- (c) Approved Man Kam To OZP No. S/NE-MKT/2;
- (d) Approved Ma Tau Kok OZP No. S/K10/22; and
- (e) Approved Kam Tin South OZP No. S/YL-KTS/13.

7. Members noted that the reference back of the above OZPs was notified in the Gazette on 17.2.2017.

- (iv) Judicial Review Lodged by the Town Planning Board against the Town Planning Appeal Board's Decision on the fulfillment of Approval Conditions in relation to a section 16 Application for Proposed Golf Course and Residential Development in Nam Sang Wai, Yuen Long (HCAL 26/2013)
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8. The Secretary reported that Nam Sang Wai Development Company Limited and Kleener Investment Limited (the Developers) were interested parties of the judicial review (JR) application lodged by the Town Planning Board (the Board). As the Developers were subsidiaries of Henderson Land Development Company Limited (Henderson), the following Members had declared interests in the item:

Ms Janice W.M. Lai	]	having current business dealings with
Mr Patrick H.T. Lau	]	Henderson
Mr Ivan C.S. Fu	]	
Mr Stephen L.H. Liu	]	
Professor S.C. Wong	]	being employees of the University of Hong
<i>(The Vice-chairman)</i>	]	Kong (HKU) which had received donation from
Mr H.F. Leung	]	a family member of the Chairman of Henderson
Dr Wilton W.T. Fok	]	before
Dr C.H. Hau	]	
Professor K.C. Chau	-	being employee of the Chinese University of Hong Kong (CUHK) which had received donation from a family member of the Chairman of Henderson before
	-	spouse working at Bethal School in Fairview Park, Yuen Long
Dr Lawrence K.C. Li	-	being the Treasurer of the Hong Kong Polytechnic University which had received sponsorship from Henderson before

- co-owning with spouse a house at Palm Springs, Yuen Long
- Ms Christina M. Lee - being Secretary General of the Hong Kong Metropolitan Sports Event 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 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 received sponsorship from Henderson before
- Mr Franklin Yu - having past business dealings with Henderson
- Ms Sandy H.Y. Wong - owning a house in Fairview Park, Yuen Long

9. As the item was to report the Court of Final Appeal (CFA)'s judgment in relation to the JR, Members agreed that the interests of the above Members were remote and they should be allowed to stay at the meeting. Members also noted that Ms Janice W.M. Lai, Mr Stephen L.H. Liu, Mr H.F. Leung and Ms Christina M. Lee had tendered apologies for being unable to attend the meeting and Mr Patrick H.T. Lau, Dr C.H. Hau and Mr Franklin Yu had not yet arrived at the meeting.

#### *The JR Application*

10. The Secretary reported that the JR was related to the decision of the Town Planning Appeal Board (TPAB) regarding the Board's decision in relation to the fulfillment of approval conditions imposed upon the planning permission for a proposed 18-hole golf

course and residential development with 2,550 units in Nam Sang Wai. The background to the JR was as follows:

- (a) on 8.4.2011, the Board considered the Developers' request for a review of the Board's decision on the fulfillment of approval conditions and came to a view that there was no provision under section 17 of the Town Planning Ordinance (TPO) to apply for a review as the Board's decision did not involve the exercise of the Board's power under section 16 of TPO. The Developers lodged an appeal with the TPAB under section 17B of TPO against the Board's decision;
- (b) the appeal was allowed by the TPAB on 30.10.2012 on the reasoning that the Board had the power to review its own decision about the fulfillment of the approval conditions and should hence proceed to review the case under section 17(1) of TPO; and
- (c) on 28.1.2013, the Board applied for JR against the TPAB's decision.

11. On 16.1.2014, the Court of First Instance (CFI) allowed the JR application and quashed the decision of the TPAB. The CFI ruled that on a true construction of the TPO, the Board's decision on fulfillment of approval conditions was not a "decision of the Board under section 16" within the meaning of section 17(1); and the Board therefore had no power to review that decision under section 17. Members were briefed on the CFI's judgment on 24.1.2014.

12. The Developers lodged appeal against the CFI's judgment. On 18.6.2015, the Court of Appeal (CA) dismissed the appeal of the Developers with costs to the Board. The CA considered that for the purpose of section 17(1), "a decision made by the Board under section 16" embraced a 'primary decision' only, i.e. a refusal or granting the permission with conditions. It did not include any incidental decision that the Board might make in the discharge of its function under section 16 of TPO. Members were briefed on the CA's judgment on 26.6.2015.



13. The Developers lodged appeal against the CA's judgment. On 16.2.2017, the CFA dismissed the appeal of the Developers by a majority with costs to the Board. A copy of the CFA's judgment had been sent to Members before the meeting. The gist of CFA's judgment was as follows:

- (a) the point for consideration of the appeal was one of statutory construction;
- (b) section 17(1) of TPO should be read as confining the review mechanism only to decision of the Board made under section 16 whereby an application for permission was refused or in which conditions had been imposed;
- (c) it could not have been the purpose or intention of the TPO to expect the TPAB to be involved in every decision of whatever nature as long as it was somehow connected with section 16;
- (d) the position regarding the limited nature of reviews had always been consistent, whether before the 1991 TPO amendments, before the 2004 TPO amendments and the current position; and
- (e) the fact that the review mechanism was unavailable did not mean that the court's judicial review powers were unavailable in the type of decision the present case was concerned, or in any other type of decision contained in the TPO for which there was no right of review.

14. Members noted the CFA's judgment.

- (v) Judicial Review lodged by Designing Hong Kong Limited against the Decision of the Town Planning Board in respect of the Draft Central District (Extension) Outline Zoning Plan No. S/H24/8 (HCAL 49/2014)

15. The Secretary reported that the judicial review (JR) application was lodged by Designing Hong Kong Limited (DHKL). Mr Thomas O.S. Ho had declared interest in this

item as he personally knew Mr Paul Zimmerman, the co-founder and Chief Executive Officer of DHKL. Members noted that Mr Thomas O.S. Ho had tendered apologies for being unable to attend the meeting.

#### *The JR Application*

16. The Secretary reported that on 8.5.2014, a JR application was lodged by DHKL against the decision of the Town Planning Board (the Board) not to amend the draft Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/8 (the draft OZP) in respect of the Central Military Dock (CMD) site. The Board was briefed on the case on 16.5.2014, 6.6.2014, 1.8.2014, 15.5.2015 and 14.8.2016.

17. The draft OZP was published on 15.2.2013 mainly to amend the zoning of a strip of the Central waterfront from “Open Space” (“O”) to “Other Specified Uses” annotated “Military Use (1)” (“OU(MU)1”) for the CMD site.

18. On 21.7.2014, the Court of First Instance (CFI) granted leave for the JR. On 23.7.2014, CFI ordered an interim stay of the submission of the draft OZP to Chief Executive in Council pending CFI’s decision on the JR.

#### *Protective Costs Order (PCO) Application*

19. One of the reliefs sought by DHKL was a PCO protecting it from the costs of the Board, or limiting the costs to HK\$10,000.

20. On 30.4.2015, the CFI refused the PCO application. DHKL appealed and on 16.2.2017, the Court of Appeal (CA) handed down its judgment unanimously dismissing the PCO appeal with no order as to costs. A copy of the CA’s judgment for the appeal had been sent to Members before the meeting. The gist of CA’s judgment was as follows:

- (a) the CA recognised the differences between the English and Hong Kong legal systems, i.e. Hong Kong had developed its own jurisprudence on costs relating to public interest litigations, and the presence of a liberal and generous legal aid system in Hong Kong;

- (b) in ruling DHKL's appeal, the CA agreed that the factors of consideration at the English Court of Appeal in the *Corner House* case were applicable and had further laid down the general guidance for future PCO applications, including:
- the issues raised must be sufficiently special so that it would be contrary to the public interest and the interests of justice to deprive the court of the opportunity to rule on the issues and information on the applicant's financial resources must be provided. The latter was the main reason why the present appeal was dismissed.
- (c) the CA also endorsed the approach that if the applicant was represented by lawyers on a *pro bono* basis, it would likely enhance the merits of the application for a PCO.

*Way Forward*

21. Subject to any further appeal against the CA's judgment on the PCO by DHKL, the Department of Justice would liaise with DHKL's solicitors to ascertain if DHKL still wished to proceed with the substantive JR.

22. Members noted the CA's judgment on the PCO appeal and the above way forward.

23. MA items (vi) and (vii) were recorded under confidential cover.

[Dr Frankie W.C. Yeung and Mr Franklin Yu arrived to join the meeting at this point.]

[Mr Ivan C.S. Fu left the meeting at this point]

**Fanling, Sheung Shui & Yuen Long East District**

**Agenda Item 3**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-NSW/242

Proposed Comprehensive Development with Wetland Enhancement (including House, Flat, Wetland Enhancement Area, Nature Reserve, Visitors Centre, Social Welfare Facility, Shop and Services) as well as Filling of Land/Pond and Excavation of Land in “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area 1” and “Site of Special Scientific Interest (1)” Zones, Lots 1520 RP, 1534 and 1604 in D.D.123 and Adjoining Government Land, Nam Sang Wai and Lut Chau, Yuen Long, New Territories (TPB Paper No. 10248)

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[The item was conducted in Cantonese/English.]

**Declaration of Interests**

24. The Secretary reported that the application was submitted by Kleener Investment Limited, Nam Sang Wai Development Company Limited, Community Wetland Park Foundation Limited and Lut Chau Nature Reserve Foundation Limited (the applicants), with the first two being subsidiaries of Henderson Land Development Company Limited (Henderson); and Masterplan Limited (Masterplan), AECOM Asia Company Limited (AECOM), LWK & Partners (HK) Limited (LWK), MVA Hong Kong Limited (MVA) and Urbis Limited (Urbis) were five of the consultants of the applicants. The following Members had declared interests on the item:

Ms Janice W.M. Lai - having current business dealings with Henderson, AECOM and Urbis

Mr Ivan C.S. Fu - having current business dealings with Henderson, Masterplan, AECOM, MVA and Urbis

- being the director and shareholder of LWK

- Mr Stephen L.H. Liu - having current business dealings with Henderson and LWK
- Mr Patrick H.T. Lau - having current business dealings with Henderson, AECOM and MVA
- Dr C.H. Hau - having current business dealings with AECOM
- being employee of the University of Hong Kong (HKU) which had received a donation from a family member of the Chairman of Henderson before
- Mr Thomas O.S. Ho - having current business dealings with MVA and past business dealings with AECOM
- his company having current business dealings with Urbis
- Ms Sandy H.Y. Wong - owning a house in Fairview Park, Yuen Long
- Dr Lawrence K.C. Li - co-owning with spouse a house at Palm Springs, Yuen Long
- being the Treasurer of the Hong Kong Polytechnic University which had received sponsorship from Henderson before
- Professor K.C. Chau - being an employee of the Chinese University of Hong Kong which had received a donation from a family member of the Chairman of Henderson before
- spouse working at Bethal School in Fairview Park, Yuen Long

- Mr Franklin Yu - having past business dealings with Henderson, AECOM, Urbis and MVA
- Mr Dominic K.K. Lam - having past business dealings with AECOM
- Ms Christina M. Lee - being the Secretary-General of the Hong Kong Metropolitan Sports Events Association that had received sponsorship from Henderson before
- Mr H.F. Leung ] being employees of HKU which had received a donation  
Dr Wilton W.T. Fok ] from a family member of the Chairman of Henderson before
- Professor S.C. Wong - being an employee of HKU which had received a donation from a family member of the Chairman of Henderson before
- being the Chair Professor and Head of the Department of Civil Engineering of HKU where AECOM had business dealings with some colleagues and had sponsored some activities of the Department 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 received sponsorship from Henderson before

25. Mr Wilson Y.W. Fung and Mr David Y.T. Lui also declared that they personally knew Mr Adrian Fu, one of the land owners of the application site (the Site), and Mr M.Y. Wan,

one of the consultants of the application. Dr Lawrence K.C. Li declared that he personally knew Mr Adrian Fu and Mr Dominic K.K. Lam declared that he personally knew Mr M.Y. Wan. Members noted that they had not been involved in the project.

26. Members noted that Ms Janice W.M. Lai, Mr Stephen L.H. Liu, Mr Thomas O.S. Ho, Mr H.F. Leung and Ms Christina M. Lee had tendered apologies for being unable to attend the meeting, Mr Ivan C.S. Fu had left the meeting, and Mr Patrick H.T. Lau and Dr C.H. Hau had not yet arrived at the meeting. As the properties of Ms Sandy H.Y. Wong and Dr Lawrence K.C. Li did not have direct view of the Site, and the interests of Professor K.C. Chau, Mr Franklin Yu, Mr Dominic K.K. Lam, Dr Wilton W.T. Fok, Professor S.C. Wong, Mr Peter K.T. Yuen, Mr Wilson Y.W. Fung, Dr Lawrence K.C. Li and Mr David Y.T. Lui were indirect, Members agreed that they should be allowed to stay at the meeting.

#### Presentation and Question Sessions

27. The following government representatives and the applicants' representatives were invited to the meeting at this point:

- Ms Maggie M.Y. Chin - District Planning Officer/ Fanling, Sheung Shui & Yuen Long East (DPO /FS&YLE), Planning Department (PlanD)
- Ms Emily P.W. Tong - Senior Town Planner/Yuen Long East 1 (STP/YLE1), PlanD
- Miss Helen H.Y. Chan - Town Planner/Yuen Long East 1 (TP/YLE1), PlanD
- Mr K.S. Cheung - Senior Wetland & Fauna Conservation Officer (SWFC), Agriculture, Fisheries and Conservation Department (AFCD)

Ms Sunny W.S. Chow	-	Wetland & Fauna Conservation Officer/Wise Use (WFCW), AFCD
Mr K.M. Wong	-	Senior Engineer/North West (SE/NW), Transport Department (TD)
Mr Ian Brownlee	]	Applicants' representatives
Ms Kira Brownlee	]	
Mr Adrian Fu	]	
Mr M.Y. Wan	]	
Mr Frankie Cheng	]	
Mr Mike Leven	]	
Mr Paul Leader	]	
Ms Lisa Yue	]	
Ms Iris Hoi	]	
Mr Kenneth Tsang	]	
Ms Ivy Yim	]	
Mr Alvin Au Yeung	]	
Mr Alan Pun	]	

28. The Secretary reported that the applicants had just submitted two documents which had been tabled at the meeting for Members' reference.

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

30. With the aid of a PowerPoint presentation, Ms Maggie M.Y. Chin, DPO/FS&YLE, 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 applicants, and planning considerations and assessments as detailed in TPB Paper No. 10248 (the Paper).

31. The Chairman then invited the applicants' representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr Ian Brownlee made the



following main points:

*Introduction*

- (a) he introduced the applicants' representatives who were going to make the presentation, and the main documents that had been submitted to the Board to support the review application, including the revised Ecological Impact Assessment (EcoIA) and Conservation Management Plan (CMP);
- (b) the application involved a conservation proposal to implement a permanently managed wetland of about 155ha which would be the second biggest area of managed wetland in Hong Kong. It was equivalent to 73% of the size of the Mai Po Nature Reserve (MPNR) and over twice the size of the Hong Kong Wetland Park (HKWP) at Tin Shui Wai, which was only 61.25ha. The approval of the application would be a very significant step forward to the management of wetland in the Deep Bay area for nature conservation;
- (c) the application was to implement the development permitted under the land use zoning of the Outline Zoning Plan (OZP). It was not a new zoning proposal but was only to materialise the planning intention for the Site. The application was submitted in accordance with the requirements of Town Planning Board Guidelines No. 12C for "Application for Developments within Deep Bay Area" (TPB PG-No. 12C) which stipulated that permanent wetland conservation could be implemented in parallel with residential development;

*Background*

- (d) the Site was subject to two previous planning applications (No. A/DPA/YL-NSW/12 and A/YL-NSW/218). The first application (No. A/DPA/YL-NSW/12) was approved by the Town Planning Appeal Board (TPAB) in 1994 and was the starting point in the process of submission of the current application. The second application (No.

A/YL-NSW/218) was submitted by the current team of consultants in October 2012. A large number of conservation and development mix options for development of the Site had been submitted and assessed under that application. The application was rejected by the Board on review in February 2014 mainly because the development footprint covering 22% of the total site area was considered too large. The applicants were advised that a scheme following the principles of the Fung Lok Wai (FLW) application (i.e. No. A/YL-LFS/224), which had been approved in November 2013, would be more appropriate. It was also pointed out that the Study on the Ecological Value of Fish Ponds in the Deep Bay Area (the Fishpond Study) had envisaged the filling of 5% to 10% of the fishponds only for limited private development, which was about half of the scale of the pond filling they had proposed in the second application;

- (e) the rejection of the second application (No. A/YL-NSW/218) gave much clearer guidance as to how the applicants should proceed with the current application. The subject site at Nam Sang Wai (NSW) had a much larger site area and permitted gross floor area (GFA) than the FLW site. Various options were discussed with PlanD and AFCD before arriving at the current proposal of 11.6ha for the Development Site, which was about 6.5% of the total area of the Site and 9.5% of the NSW portion of the Site. The area for the Development Site had been agreed with the departments concerned;
- (f) paragraph 6.2.2(c) of the Paper stated that AFCD considered that the applicants should consider different alternatives for the location of the development. Indeed, they had considered many alternatives before coming up with the current proposal of limiting the Development Site at the south-western portion of the Site which was located farther away from MPNR;

*Responses to the Rejection of the Application at the Section 16 Stage*

- (g) paragraph 141 of the minutes of the RNTPC meeting held on 22.1.2016 in relation to the rejection of the current application at the section 16 stage recorded that the Chairman of RNTPC summarised at the end of the deliberation that the divergence between the applicants and the Government had been narrowed as shown in the acceptance of the ecological baseline information, ecological survey, environmental assessment, sewerage impact assessment, drainage impact assessment and water supply impact assessment by the concerned government departments, despite there were still inadequacies between the proposed enhancement and mitigation measures and long term conservation measures, in particular the noise impact during construction and after completion of the residential development, the ecological impacts and the potential loss of wetland due to the proposed vehicular bridge across Shan Pui River;
  
- (h) in the current review application, the noise and ecological impacts, traffic impacts, visual impacts, landscape impacts and even the light impact from high-rise buildings on fireflies had been addressed and resolved. Before submitting the review application, the ways to address the outstanding matters were discussed with PlanD and AFCD. After submission of the review application, other comments from the departments were received and responses to the comments were provided. Owing to the combined effort made with the departments to resolve the issues, there was very little divergence between the applicants and the government departments. However, the Paper did not reflect the actual situation, giving the impression that there were still a number of outstanding issues to be addressed;
  
- (i) the applicants had a meeting with PlanD and AFCD on 8.7.2016. From the notes of meeting which were included in the tabled information, it could be seen that the firefly mitigation issue had been discussed and addressed, including the adoption of single aspect building design and

other measures to control the lighting in the vicinity. AFCD was of the view that if the proposed approach would be taken, no other compensatory measures for protecting the fireflies would be necessary. Other issues which were discussed and agreed included the enhancement of the development proposal and funding contribution for long-term wetland management. However, it was very disappointing to see that AFCD had gone back on some of the points previously agreed, such as mitigation for the firefly, and repeatedly raised issues which had been answered or concluded previously by the RNTPC, such as the inclusion of government land into the Site, the location of the Development Site and the proposals for the long-term management of the wetland. Those issues would be addressed in the ensuing parts of their presentation;

- (j) the major changes made at the section 17 stage for the application included the submission of revised EcoIA and CMP to incorporate changes to the proposed mitigation measures, such as tidal pond, single aspect buildings, mitigating indirect habitat loss, screening of mangroves and mitigation for the vehicular bridge; the submission of a revised Master Layout Plan (MLP) to incorporate changes in building layout for the single aspect building and increased setback of the high-rise buildings to 400m from Cormorant roost; the clarifications on the wetland management budget and funding, including a capital contribution of \$120 million and conformity with the required arrangements as set out in TPB Paper No. 8869 as regards the long-term arrangements of the Private-Public Partnership (PPP) scheme; and the submission of Landscape Impact Assessment and revised landscape proposal, Visual Impact Assessment and Traffic Impact Assessment (TIA);
- (k) to avoid disturbance to the habitats of the mangroves, seven single aspect buildings with no light penetration towards the mangroves were proposed at the section 17 stage, instead of using the closeable aluminium louvre system for screening the light of buildings as proposed at the section 16 stage; and

- (1) as regards the land ownership issue, the Development Site was all private land whilst government land was only proposed for the conservation areas and public park. The current dumping and desecration of the ecology at Lut Chau (LC) were taken place on the government land.

32. A video was played at this juncture to show the current degenerated conditions of the wetlands at NSW and LC where dumping activities, illegal extension of commercial fish ponds and drying of wetland due to the introduction of exotic plants had occurred, threatening the habitats of the migratory birds. The problems stemmed from the lack of proper management of the wetland. Some overseas examples of decently managed wetlands for public enjoyment were also shown, including the London Wetland Park, the Sungei Buloh Wetland Reserve at Singapore, and the Blue Heron Water Reclamation Facility and Wetland Area at Titusville, Florida.

33. Mr M.Y. Wan continued to make the following main points:

- (a) the London Wetland Park as shown in the video was opened in 2000. It was conceived in the same era as when the conservation cum development at NSW was planned in the mid-1980s. The three overseas examples brought out the messages that management would be required for a wetland, and nature conservation and residential development were not mutually exclusive and were proven to be able to coexist;
- (b) a half-hour version of the documentary called “Cherish Our Nam Sang Wai” was shown on the Pearl Channel twice, which was well received and had conveyed the concept to the audience. The full story of their application was summarised in a brochure, which was later revised to incorporate the amendments to the scheme. Their publicity works were intended to achieve maximum transparency in the public engagement process. The complex messages to a wide audience seemed to have been delivered as many people were willing to come out to support their application. They were the well-informed supporters, compared with many uninformed objectors;

- (c) their development proposal comprised mainly 2,521 residential flats, about 155ha of managed wetland, an elderly centre, a visitor centre and a public park. The intended development of the Site could be implemented while 93% of the area of the Site would be put under conservation management at the same time;

[Mr Martin W.C. Kwan left the meeting temporarily at this point]

*Destruction and Degradation of Wetland*

- (d) their recent site survey revealed that a large area of the peripheral mangrove at LC which was within the Mai Po Inner Deep Bay Ramsar Site (the Ramsar Site) had been destructed, a concrete bridge had been constructed illegally to facilitate dumping activities, and many abandoned tyres had been deposited in the area. If the wetland was put into proper nature conservation as intended in the zoning, such destructions would not occur;
- (e) he had recently copied his reply to a letter from Hon Roy Kwong Chun-yu to Members, which was to dispel any implied allegations that the applicants would have set fire on the wetland at the Site to destroy the area to cheat for a planning permission. He solemnly declared that they had never set any fire at the Site. He visited the Site during the Lunar New Year and talked to some local people having business there. The conversation alerted him that arson was a possibility. He speculated that some people were so worried about the proposed development to the degree that some misdeeds might have been undertaken to arouse controversy at the time of decision making to disturb a fair hearing. That was already the second fire;
- (f) even without human destruction, wetland could be degraded by nature. Their ecological baseline survey revealed that there was sedimentation of dead reeds in the wetland, causing gradual loss of wetland functions and

ultimately the wetland itself. Reeds grew in the idling fish ponds. Successive generations of reeds caused sedimentation, and sedimentation caused wetland to become solid ground. They discovered that terrestrial plants such as *Mikania micrantha* were growing on the wetland with sedimentation. If wetland was not properly managed, it would be turned into solid ground by natural forces;

- (g) while AFCD was worried about the adverse impacts on the wetland caused by the proposed accommodation of 6,500 residents at the Site, it should be noted that the proposed development would provide 155 ha of managed wetland at the same time. In comparison, only a 61 ha HKWP was set up to compensate for the loss of wetland when Tin Shui Wai was developed, which had accommodated a total population of 290,000. The Board should judge whether the amount of managed wetland they provided was adequate;

*Benefits of the Scheme for All*

- (h) housing development was the primary policy agenda item of the current term Government. The housing issue should continue to be a hot topic after the coming change of term of Government. The unrealistically high housing price was ruining the quality of life of Hong Kong people particularly the new generations. As the Site was zoned for housing development despite with specific development requirements, more efforts should be made by all parties concerned towards the fruition of the housing opportunities;
- (i) the aging population amounting to as much as 17% of the total population created another problem for Hong Kong. There were many more people aged 85 and above, and one in three of those old people would suffer from dementia. The applicants had agreed with the Hong Kong Alzheimer's Disease Association (HKADA) to operate a residential cum day care centre and a carer training centre, and the Intellectually Disabled Education and Advocacy League (IDEAL) to

provide a small residential centre for the aging intellectually disabled people at the Site. With such centres, the two non-governmental organisations (NGOs) could help raise community awareness of the growing aging issue and needs of the elderly;

- (j) an area of grassland within the Site was currently used and valued by the public for informal recreation purpose. The informal park was however dirty and dangerous to visitors as the playing of model aircrafts, the unleashed dogs and random cycling were exposing the young children to risk. The applicants would not use the area for development but would manage the area with the wetland to provide visitors with a safe, orderly and pleasant environment. Moreover, club facilities for bird watching within the visitor centre would provide a recreational and leisure space for the elderly;
- (k) while a government officer had asked whether they could lower the plot ratio (PR) of the proposed development, he would consider it unprofessional in not using up the permitted PR of a site in Hong Kong as development land was a scarce resource and they should be able to demonstrate how the maximum permissible PR could be utilised. In their development proposal, they had proposed to use about 8.4% of the total domestic GFA for development of small flats, which could be used for Home Ownership Scheme (HOS) purpose if the Government accepted. Such HOS flats would not bring any profit to the applicants. For the total non-domestic GFA, over 60% would be used in the development of the proposed visitor centre and the centres for HKADA and IDEAL, which were non-profit-making. In other words, the applicants only aimed at maximising the permissible GFA under the OZP to resolve the housing shortage, but not the profit;

*Transparency of the Scheme*

- (l) they had tried every effort to increase the transparency of their development proposal. Their website on NSW had been running for



three years, and they published the brochure to introduce their proposed scheme to the public. They had engaged the green groups and politicians for dialogues from time to time although some of them were not keen to talk to them. Recently the Ramsar Secretariat came to Hong Kong for an informal gathering to study what had or had not happened in Hong Kong after the designation of the Ramsar Site twenty years ago. They explained their approach to the Ramsar Secretariat and did not receive adverse comments. Those in the nature conservation sector were aware of what they were doing and those lay public had become more informed of their proposal. Moreover, their responses to the departmental comments on the application had been published repeatedly to maximise transparency;

[Mr Andy S.H. Lam arrived to join the meeting at this point.]

*Politics of Nature Conservation*

- (m) he recently had a conversation seeking collaboration with an objector from a local green group. He was told that it would be unethical for a green group to object to their application and join them afterwards to manage the wetland when the application was approved. Their application for development on wetland should be objected to as a matter of principle by the green groups. Although the green groups reckoned the need for nature conservation management, their agenda was either the Government gave a non-in-situ land exchange to the applicants, or resumed all the private land in the wetland. However, both options were unfair to the community if the Site could be developed under the provisions of the OZP. In that regard, the “PPP approach” as suggested under the New Nature Conservation Policy (NNCP) of 2004 could be the solution. The applicants had started discussions with some international conservation organisations on formation of green partnership for wetland management. The availability of an approved scheme was crucial for them to move forward; and

*Rise in Sea Level*

- (n) according to the Hong Kong Observatory, the sea level of Hong Kong would increase for about 300mm in 2050 and about 1m to 2m in 2100. Noting that Hong Kong's sea level would keep rising due to global warming, the applicants were going to raise the level of the peripheral bunds of the fishponds of the Site to prepare for the rise in sea level in future.

34. Mr Ian Brownlee continued to make the following main points:

*Location of the Development Site*

- (a) the location of the Development Site had been decided on two previous occasions but AFCD still raised it as an issue again in the review application. The area of grassland which was currently used as an informal public park was the area of least ecologically significant land within the "Other Specified Uses" annotated "Comprehensive Development and Wetland Enhancement Area 1" ("OU(CDWEA1)") zone. That area of land was what the public generally identified as NSW, and all consultations with the District Council members and others had indicated the great importance that the public placed on the continued access to that area. At present, the grassland area was not managed. The applicants proposed to manage the area and maintain its current conditions as far as possible so that it would be safe to use and compatible with the conservation of the wetland. Such a proposal had been accepted by the Board at the section 17 hearing of the last application (No. A/YL-NSW/218), at the section 16 consideration of the current application and at their discussions with the government departments on the MLP. AFCD wanted the development to be located on the grassland area, but the idea was not supported by others;
- (b) as stated in paragraph 6.2.2(c) of the Paper, AFCD pointed out that the proposed Development Site encroached upon habitats of high ecological

value but confirmed that it was located farthest away from the Ramsar Site and had taken up the relatively ecologically less sensitive area within the Site, which was in line with the requirements of the OZP and TPB PG-No. 12C. In the current application, the most suitable area for development had been identified, and the affected ecological habitats had been suitably compensated and mitigated. It had also balanced the needs for conservation and provision of access to the grassland area for public enjoyment; and

*Agreed Development Intensity*

- (c) the permitted development intensity within the NSW Site was stated in the OZP, namely a maximum domestic GFA of 306,581m<sup>2</sup> and a maximum non-domestic GFA of 13,000m<sup>2</sup> including a club house with GFA of 8,000m<sup>2</sup>. Throughout the rounds of comments and submissions, AFCD and the Environmental Protection Department (EPD) had raised the question on what the ‘agreed scale of development’ was. In their view, it was crucial that the proposed development would conform to the “PPP approach”. The applicants had answered such a question on many occasions as could be seen in all of their responses to departmental comments. The permitted GFA was clearly stated on the OZP. In RNTPC’s consideration of the application at the section 16 stage, DPO/FS&YLE had also clarified that the maximum permissible GFA was equivalent to a PR of about 0.179 for the whole site, which was comparable to the developments in the surroundings including a similar development at FLW. In that regard, PlanD did not have objection to the development intensity being proposed and had generally accepted the compatibility of the form of development. Having established the agreed location and the agreed amount of GFA in the proposed scheme, the concern of AFCD should be considered as having been addressed.

35. Mr Mike Leven continued to make the following main points:

- (a) while AFCD still had some ecological and conservation concerns on the application and considered that the applicants failed to demonstrate “no-net-loss in wetland” principle, they had already addressed those concerns in the revised EcoIA. His presentation would focus on three outstanding issues, namely potential increase in human disturbance, light impact on Bent-winged Firefly and adverse impact on Cormorant roosts due to the proposed development;

*Potential Increase in Human Disturbance*

- (b) two sources of human disturbance were identified by AFCD, namely the additional population of 6,500 from the proposed residential development and the increase in the number of cyclists due to the presence of a cycle track on the proposed vehicular bridge across the Shan Pui River;
- (c) the potential disturbance impacts arising from increased human population had been carefully considered and evaluated in Sections 1.7.29 to 1.7.33 and Tables 41 to 49 of the EcoIA report. A 10m-wide vegetative buffer would be created between the residential development and the NSW wetland enhancement area (WEA) through dense tree and shrub planting for effectively screening off the WEA from the residential development;
- (d) as regards vehicular access, the current baseline conditions were uncontrolled access to Nam Sang Wai Road and the NSW and LC Sites by people, bicycles and motor vehicles. However, with the completion of the proposed development, the entire WEA would be fenced off and patrolled so that there would be no public access to LC and only controlled daytime access to the nature trail on the edge of NSW WEA. Access to NSW WEA would be limited to 200 visitors per day and a maximum of 50 visitors at one time. The public would only be allowed to access the nature trail at the north-western part of the Site and the visitor centre during specific hours to minimise disturbance to the Cormorant roosts in the WEA;

- (e) in addition to the highly “precautionary approach” to protect the WEA, there would be robust contingency measures to monitor the actual disturbance to the WEA. It was stated in the EcoIA report that in the event the construction or operation of the project led to greater disturbance impacts than predicted, the mitigation measures would be reviewed and adjusted with the primary objective of conserving the habitats in the WEA;

*Adverse Light Impact on Bent-winged Firefly*

- (f) while AFCD noted that single aspect building design would be adopted in the development to address the light impact on Bent-winged Fireflies, they might have overlooked the comprehensive set of measures that had been proposed to mitigate any increase in light levels from both the sources and the overall ambience. Besides single aspect building design, measures to limit light impact on fireflies included erection of peripheral solid opaque barriers of 3.5m high during construction, provision of high parapet wall and low level lighting at the vehicular bridge, use of low level lighting in the public areas of the development, and use of the existing plantation and erection of bamboo walls for light shielding. Fireflies in the WEA were known to have the ability to tolerate some lights, such as those from Fairview Park and Yuen Long Industrial Estate;

*Adverse Impact on Cormorant Roost*

- (g) Cormorants flew to Hong Kong from the north during winter. There were three main Cormorant roosts in Hong Kong, namely NSW, Mai Po and Lok Ma Chau. In NSW, Cormorant roosts were distributed in the northern and southern parts of the NSW Site. The southern Cormorant roost in NSW was closer to the Development Site and the applicants had tried to avoid the impact of the proposed residential development on the Cormorant roost; and

- (h) the location of the Development Site at the south-western part of the Site would not cause any direct habitat loss for the Cormorants. The high-rise residential buildings of the scheme were set back as far as possible from the Cormorant roosts. From the empirical data collected at Fairview Park and MPNR, Cormorant roosts were unlikely to be affected when they were at a distance of more than 150m from residential developments. Only about 1.2% of the southern Cormorant roost in NSW was located within 200m from their high-rise residential buildings, which was a very small fraction, and 87% was more than 400m from their high-rise buildings and they would unlikely be affected. The northern Cormorant roost in NSW was entirely outside the 400m zone of their development and it had the capacity to accommodate more of the Cormorants.

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

[Dr Lawrence W.C. Poon left the meeting temporarily at this point and Dr Frankie W.C. Yeung left the meeting at this point.]

36. Mr Paul Leader continued to make the following main points:

*Management Structure*

- (a) the CMP for the NSW WEA and Lut Chau Nature Reserve (LCNR) was prepared based on those of similar projects such as MPNR and the Lok Ma Chau (LMC) Ecological Enhancement Area. The management structure followed basically the LMC model with an external review body comprising a team of independent ecologists and an environmental advisory group with representatives from the local NGOs;

*Wetland Restoration Works*

- (b) the existing reedbeds in NSW WEA and commercial fish ponds in LCNR would be retained and enhanced through restoration and pond reprofiling works. In LC, the areas previously filled by dumping would be removed and some modifications to the pond structure would be undertaken. The water levels and fish stocks of the ponds would be controlled carefully and the mangrove areas would be increased. In NSW, the existing areas of reedbeds would be enhanced and new areas of reedbeds, shallow tidal ponds, lily ponds and wet grassland would be created. The water would be stocked with fish and shrimps to provide food for the birds; and

*Budget for Wetland Management and Maintenance*

- (c) while AFCD had raised concern on their budget for wetland management and maintenance which was based on 2015 prices, they had taken into account a comprehensive set of items in their estimate and an annual budget of about \$3.7 million was worked out, which was comparable to the annual budget of MPNR with a larger wetland area. It should be noted that many of the items might be subject to an open tender process in the future and the cost was not certain at this stage. They were committed to review their budget and the contribution to the Environment and Conservation Fund (ECF) at the detailed design stage.

37. Ms Iris Hoi continued to make the following main points:

*Visual Impact Assessment*

- (a) while people might perceive that the Site was rather rural in nature, the southern portion of the NSW Site was in fact quite urban with Yuen Long Industrial Estate to its east and Yuen Long Town to its southeast. There were a lot of developments in the surrounding areas of the Site including Shan Pui Tsuen and some private residential developments to

the south. The building heights of some nearby residential developments were over 20 storeys;

- (b) in Kam Tin, similar residential developments with WEA had been approved and developed, including Park YOHO Venezia and The Riva; and
- (c) photomontages of the proposed development as viewed from Pok Wai Road South next to Kam Tin River and from Lam Tsuen Country Park revealed that the proposed development on the Site was very similar to the other adjacent residential developments in terms of urban context and scale. Meanwhile, the WEA of the Site would remain to be rural in character.

38. Mr Alan Pun continued to make the following main points:

*Traffic Impact Assessment*

- (a) to address the comments of TD at the section 16 stage, the traffic forecasts in the TIA conducted for the review application were worked out by traffic model instead of the simple growth rate method. A local traffic model for Yuen Long area was developed with validation of observed traffic flows, incorporation of available planning data on population, committed developments and future road network; and
- (b) a total of 13 junctions in Yuen Long area had been assessed in the TIA according to the traffic forecast. The TIA revealed that three junctions (i.e. those at Wang Lok Street/Fuk Hi Street, Yuen Long On Lok Road/Long Yip Street/Po Yip Street and Yuen Long On Lok Road/Wang Tat Road/Wang Lok Street) would require improvement measures upon occupation of the subject development in the design year 2029. Some minor improvement measures, including local road widening, amending the current traffic control method and amending the road marking, had been proposed. With the implementation of proposed improvement



measures, all the critical junctions would operate with reserve capacities and the proposed development would not cause any adverse traffic impact on the nearby road network.

39. Mr Ian Brownlee continued to make the following main points:

*Summary of Major Issues*

- (a) the key issues would be summarised to facilitate Members' consideration of the review application. It was clear that the concerns of AFCD were less significant than the manner in which they were presented in the Paper and the concerns had been adequately addressed by the technical assessments, by the comments of other departments and by the previous decisions of the RNTPC;
- (b) TIA – the question raised about the modelling assumptions by TD was technical and related to background traffic conditions rather than the traffic generated from the Site. The proposed mitigation measures for minor improvements to three road junctions were appropriate to meet the increase in traffic. A revised TIA could be submitted under the requirement of approval condition;
- (c) Mitigation for Firefly – there were extensive measures proposed to mitigate the potential light impact on fireflies. The effectiveness of the measures would be monitored through the CMP. Alternative and additional measures could be implemented if any discrepancies were identified;
- (d) CMP – the proposal was capable of providing an organisational structure for the management of the WEA. Adequate funds would be provided as a contribution to the ECF and the actual amount would be subject to discussion with the ECF. The Board could impose approval conditions requiring the submission and implementation of a revised CMP and a funding arrangement proposal as proposed in the Paper;

- (e) Government Land – RNTPC agreed that it was beyond the purview of the Board to consider the granting of government land to the applicants. The Lands Department (LandsD) had confirmed that if a land exchange application was made after the approval of the application, the issue would be considered in the context of policy support and agreement from AFCD and EPD;
- (f) Cormorant Roosts and the 400m Buffer – a “precautionary approach” had been taken in relation to the possible impact of the proposed higher blocks on the Cormorant roosts. There was no identified impact and the additional mitigation measures such as the increased 400m buffer and planting of new trees could adequately address the issue;
- (g) Location of the Development Site – the selected location of the Development Site was agreed by AFCD as being the most appropriate if the grassland area was retained for use as a public park, which was a major factor for the general public to support the project;
- (h) Scale of Development – the development scale was permitted under the OZP and compatible with the adjacent developments in the area. It was also based on the FLW model;
- (i) Mitigation for Impact of Human Activity – a number of mitigation measures had been proposed including the design and layout of the development area, fencing of the whole WEA, screen planting, positive management and control of the public park for recreational purpose;
- (j) Loss of Wetland – the proposed mitigation measures would ensure that there was no-net-loss of wetland function throughout the Site. The disturbance impact as identified in the EcoIA could be mitigated; and
- (k) when deciding the review application, the Board was requested to consider: (i) whether the proportional split of the Site between the

conservation and development components (i.e. 11.6ha versus 155ha) was adequate to enable the meeting of the “no-net-loss in wetland” principle; (ii) whether the mitigation measures proposed in the application were adequate to address the impacts of the development and the proposed vehicular bridge so as to ensure that “no-net-loss in wetland” principle could be achieved; and (iii) whether the maintenance of the status quo of unmanaged fishponds at LC and deteriorating wetlands at NSW was an option given that the planning intention of the OZP was to implement long-term conservation for the Site in conjunction with residential development.

40. Mr Adrian Fu continued to make the following main points:

- (a) his family owned the private land within the Site since the 1960s. NSW was his home and he would not damage the land with the proposed development. He would address the three key issues relating to commitment, management and funding, and objection from green groups in his presentation;

*Commitment to the Project*

- (b) part of their private property had always been opened to the public for various activities and they would continue opening it during and after the development. The proposed development would only occupy a small part of the Site and would not interrupt the current activities enjoyed by the public. The implementation of the proposed ecological management measures would be carried out carefully after the approval of the application to ensure protection of wildlife and fauna, and conservation of the wetlands for the future generations;
- (c) his family created the habitat at the Site, including planting of *Eucalyptus* trees. There was no reason for them to destroy their own property. Any suggestion on ‘destroy and rebuild’ was the initiative of other interested parties to mislead the public;

*Future Management of the Wetland and Sustainability of the Trust Fund*

- (d) while there were doubts on the adequacy of the proposed funding and future sustainability of the wetlands scheme, they pledged an endowment to fully fund the conservation work. The ECF would take care of the endowment and the setting up of the funding requirements. As the landowner, they would work closely with the ECF on the optimum funding to the trust. The funding, which would be introduced in stages prior to development as it was a pre-requisite for the approval of project, would support conservation efforts in the long-term;
  
- (e) his family foundation was a permanent trust which had been in operation for ten years and had funded 185 projects of NGOs involving a total sum of \$335 millions. The donations were funded by investment returns from an endowment invested by professional fund managers which was similar to the current proposal. The foundation was supervised by an independent board of trustees made up of professionals and family members with expertise in charitable initiatives. Once the trust had been set up, there would be a proven source of funding, clearly defined mission statements and corporate governance;

*Objections from the Green Groups*

- (f) the foundation had supported many NGOs and he had been a trustee of World Wide Fund for Nature Hong Kong for six years. One of the greatest challenges for NGOs was to raise funds to support their priority projects. They undertook to offer the full cost of an eco-project the NGOs were looking for in a package under the ECF. Objections were mainly based on the consideration that only “zero development” would be acceptable. The merits of their scheme were not being fully understood nor fairly considered. The green groups would feel sorry for not participated in the scheme if it was approved. There were cases that the green groups opposing a development proposal would eventually

took over the management of the approved scheme;

- (g) an eco-friendly development project was a proven concept and had been applied in many countries such as the United States, the United Kingdom, Singapore and even Mainland China. The London Wetland Park was a very successful example among many others. For the current proposal, the general public was informed that some 20-storey buildings would be built and might create a high-density development. That was not the case. Cities like Vancouver, Melbourne and Sydney accommodated high-rise buildings in an eco-friendly environment;
- (h) development in wetlands could not be put forward as people were stuck in different opinions and the justifications of the proponents could barely be heard. The proposed planning gains, such as contributing 20% of future housing units for the HOS, were not noted. To address the objections, they might simply replace the proposed tower blocks with low-rise residential buildings or luxury houses. However, that would not help address the housing shortage of Hong Kong;

*Concluding Remarks*

- (i) in short, the facts were: (i) development would take place on only 7% of the entire planning scheme area in the least ecologically sensitive location, whilst retaining the open area for recreational use; (ii) they would inject funding to bear the full conservation costs of 93% of the entire planning area, and construction would only commence after the proposed mitigation measures were implemented; and (iii) the 'Balanced Master Plan' would be a solution to address housing shortage and wetland sustainability rather than maximising profit; and
- (j) the public sentiment had changed when more people understood the benefits of the current proposal and their comprehensive planning efforts. The recent judgment of the Court of Final Appeal related to the Site might have created some confusion to the public. It was not their

intention to revert to the previous approved scheme. The developer only wished to seek clarification on certain legal points for record purposes. To sum up, he was prepared to see the fruition of the project, which would turn the NSW and LC area from its current degrading conditions to a well-managed ecological area.

41. As the presentations of PlanD's representative and the applicants' representatives were completed, the Chairman invited questions from Members.

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

*Planning Intention and TPB PG-No. 12C*

42. A Member asked if the proposed development had complied with the planning intention of the Site and TPB PG-No. 12C as claimed by the applicants' representatives. Ms Maggie M.Y. Chin, DPO/FS&YLE, with the aid of some PowerPoint slides, made the following points:

- (a) the Site comprised two portions, viz. the NSW Site to the south which fell within the "OU(CDWEA1)" zone on the approved Nam Sang Wai OZP No. S/YL-NSW/8; and the LC Site to the north which fell within the "Site of Special Scientific Interest (1)" ("SSSI(1)") zone on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6;
- (b) any proposed development within the "OU(CDWEA1)" zone should comply with the planning intention of the zone, which was for conservation and enhancement of ecological value and functions of the existing fish ponds or wetland. Low-density private residential or passive recreational development within that zone in exchange for committed long-term conservation and management of the remaining fish ponds or wetland within the site might be permitted through the planning application mechanism subject to the "no-net-loss in wetland" principle and the "PPP approach";

- (c) as the Site fell within the Wetland Conservation Area (WCA) of the Deep Bay Area, any planning application for development should comply with TPB PG-No. 12C. The three guiding principles in TPB PG-No. 12C included:
- (i) “precautionary approach”: to protect and conserve the existing ecological functions of fish ponds in order to maintain the ecological integrity of the Deep Bay wetland ecosystem as a whole;
  - (ii) “no-net-loss in wetland”: no decline in wetland area or ecological functions served by the existing fish ponds;
  - (iii) “PPP approach”: allowing limited low-density private residential/recreational development at the landward fringe of the WCA in exchange for committed long-term conservation and management of the remaining fish ponds within the site; and
- (d) while the proposed development intensity in the current proposal generally conformed to maximum GFA restrictions on the OZP, the applicants had to demonstrate that it had complied with the “no-net-loss in wetland” principle and the relevant requirements in TPB PG-No. 12C. However, AFCDC considered that the proposed development had encroached on habitats of high ecological value, and the disturbance impacts on the wetland wildlife species, including Bent-winged Fireflies and Cormorants, would result in reduced abundance of the concerned species, thus a loss of wetland function of the area. As the proposed development could not demonstrate that the planning intention for the “no-net-loss in wetland” principle and requirements on conserving the ecological value and functions of the existing fish ponds could be met, it was considered not in compliance with the planning intention of the Site and the “precautionary approach”, “no-net-loss in wetland” principle and “PPP approach” under TPB PG-No.12C.

*Permissible Development Intensity at the Site*

43. The Chairman and some Members raised the following questions:
- (a) the background for the incorporation of the maximum permissible GFA in the OZP;
  - (b) whether the maximum permissible GFA in the “OU(CDWEA1)” zone was achievable given the stringent requirements for wetland conservation; and
  - (c) whether there was any valid planning permission that could be implemented at the Site.
44. In response, Ms Maggie M.Y. Chin, with the aid of some PowerPoint slides, made the following points:
- (a) the first application No. A/DPA/YL-NSW/12 at the Site was received on 1.8.1992 when the Site was then covered by 3 zonings, namely “Residential (Group C)” and “Unspecified Use” on the NSW Development Permission Area (DPA) Plan and “SSSI” on the Mai Po and Fairview Park DPA Plan. The proposed development at the NSW Site comprised an 18-hole golf course with residential development and the LC Site was for conservation purpose. Although the application was rejected by the Board on review, the TPAB allowed the appeal and granted planning permission for the proposed development subject to 27 approval conditions. Subsequently, the Board, the TPAB and the applicants had involved in a series of legal proceedings and the decision of the TPAB was finally upheld by the Privy Council in 1996;
  - (b) taking into account the ecological value of the wetland area and the recommendations of the Fishpond Study, the NSW Site was zoned “OU(CDWEA1)” on the NSW OZP which was intended for conservation and enhancement of ecological value and functions of the existing fish



ponds or wetland through consideration of application for development or redevelopment under the “PPP approach”. The maximum GFA, which denoted the ceiling of development intensity permitted on the Site, was stipulated in the Notes for the zone to reflect the development parameters of the proposed development granted by the TPAB and upheld by the Privy Council in 1996 under planning application No. A/DPA/YL-NSW/12;

- (c) in order to attain the maximum GFA for development on the OZP, the applicant still had to demonstrate that the proposed development was in line with the planning intention of the “OU(CDWEA1)” zone and the requirements of TPB PG-No. 12C were complied with, including the “precautionary approach”, “no-net-loss in wetland” principle and “PPP approach”. Each application would be considered by the Board based on its individual merits. For example, the FLW development scheme was approved by the Board in 2013 on the consideration that the applicants had demonstrated that the proposed development was able to meet the then TPB PG-No.12B in terms of minimum pond filling and “no-net-loss in wetland”, and that all technical issues had been resolved to the satisfaction of relevant departments;
  
- (d) implementation of the proposed development under planning application No. A/DPA/YL-NSW/12 was subject to the fulfilment of the 27 approval conditions. In an attempt to fulfil the approval conditions, the applicants submitted a modified MLP which was rejected by the Board in 2010 on the consideration that the modified MLP constituted major changes to the approved scheme and the relevant approval conditions could not be regarded as satisfactorily complied with. Subsequently, the Board and the applicants were involved in a series of legal proceedings in relation to whether compliance with approval conditions could be subject to review/approval under the Town Planning Ordinance (TPO). The applicants’ appeal was finally dismissed by the Court of Final Appeal (CFA) on 16.2.2017;

- (e) four applications for extension of time (EOT) for commencement of the proposed development under planning application No. A/DPA/YL-NSW/12 were received. While the first three EOT applications were granted, the fourth application was rejected by the RNTPC and the applicants had sought a review of the RNTPC's decision on 12.1.2011. On 28.10.2011, the Board decided to accede to the applicants' requests to defer the consideration of the review pending the determination of the appeal lodged to the TPAB in relation to the fulfillment of approval conditions. The issue related to the fourth EOT application had yet to be resolved.

### *Land Ownership*

45. The Chairman and a Member raised the following questions:

- (a) whether the applicants were the sole land owner of the private land in the Site; and
- (b) what the land ownership pattern was for the area between the NSW and LC Sites, and at the periphery of the two sites.

46. Mr M.Y. Man, the applicants' representative, confirmed that all private land within the Site was owned by the applicants.

47. Ms Maggie M.Y. Chin, with the aid of a PowerPoint slide, said that although there was no information on the land ownership pattern for the land at the periphery of the NSW and LC Sites at hand, it could be noted that the surrounding areas were predominantly occupied by wetland with some village settlements to the south of the NSW Site.

### *Management of the Wetland Area*

48. Some Members raised the following questions:

- (a) what the importance of the Ramsar Site and the adjacent wetland area was in the whole wetland system;
- (b) whether the wetland at the Site would be disappeared if the “PPP approach” as proposed by the applicants could not be realised;
- (c) whether the Government had undertaken any action to manage the existing wetland at the Site, and how the management and control at the Site could be strengthened;
- (d) how the government land within the Ramsar Site was managed and whether the government land could be rented for commercial fishpond operation; and
- (e) whether there was any illegal dumping activity in the wetland area, whether the activities were carried out on government land or private land, and whether any enforcement action had been undertaken by the Government.

49. In response, Ms Sunny W.S. Chow, WFCW of AFCD, and Ms Maggie M.Y. Chin, made the following points:

- (a) the Mai Po Marshes, the Inner Deep Bay and the surrounding fish ponds had been listed as a “Wetland of International Importance” (i.e. the Ramsar Site) under the Ramsar Convention since 1995. There was a list of criteria to be met before a site could be qualified as a Ramsar Site. AFCD, as the administrative authority of the Ramsar Site, had formulated and implemented a Ramsar Site Management Plan. The Ramsar Site, which comprised government and private land, was subdivided into different management zones with the Core Zone mainly consisted of inter-tidal mudflats and mangroves. The fishponds in the vicinity including NSW, San Tin, Hoo Hok Wai and Lok Ma Chau, which were ecologically linked with the Mai Po Marshes, formed an

integral part of the Deep Bay wetland ecosystem, had been designated as WCA;

- (b) the NNCP promulgated in 2004 had identified 12 Priority Sites for enhanced conservation. The LC and NSW Sites fell within two Priority Sites, namely, the Ramsar Site and the Deep Bay Wetland outside Ramsar Site respectively. Since 2012, the Hong Kong Bird Watching Society (HKBWS) had been conducting two management agreement (MA) projects funded by the ECF in Deep Bay to enhance the ecological value of fishponds. Under the MA projects, fishpond operators would receive a management fee for conducting conservation management practice including drain-down of ponds to provide more feeding opportunities for waterbirds. Given the good outcome, the MA projects would continue to be carried out in future;
- (c) as the Site fell within two Priority Sites, it was also covered by the MA projects implemented by HKBWS and local fishermen. Uses on private land were also controlled under the TPO, the concerned lease and other regulations. Any uses under Column 2 of the concerned zones on the OZPs and pond filling would require planning permission from the Board;
- (d) the MA projects were carried out on both government and private land as the land status was not a major concern in the conservation and enhancement of the wetland function. The land management issue was under the purview of LandsD; and
- (e) the Government was aware of the dumping activities on both government and private land at the Site. Relevant government departments including PlanD, EPD and LandsD were undertaking investigations, and appropriate enforcement actions under their purview would be taken if unauthorised development was found.

*Ecological Impact*

50. The Chairman and some Members raised the following questions:

- (a) whether the planting as proposed by the applicants was an effective screen for the wetland area;
- (b) whether the Cormorants could move to another roosting place if NSW development was implemented as claimed by the applicants;
- (c) whether AFCD agreed with the applicants' claim that the 'no-net-loss in wetland' principle had been met;
- (d) whether the proposed development intensity was fundamentally unacceptable no matter what mitigation measures were proposed;
- (e) what the conservation value of the tidal pond and lily pond was as proposed by the applicants;
- (f) what the existing uses in the proposed Development Site were and what measures had been adopted to compensate for the loss of wetland habitat in the Development Site; and
- (g) what the relationship between raising the bund and conservation was in response to the global warming and rising in sea-level as mentioned by the applicants' representative.

51. In response, Ms Sunny W.S. Chow, with the aid of the visualiser, made the following points:

- (a) the screen planting was expected to minimise human disturbance to a certain extent and it had been adopted in other wetland conservation projects. However, the crux of the consideration in the current application was not whether any single measure proposed was effective

or not, but the overall potential human disturbance due to the development scale and intensity;

- (b) Mai Po and NSW were the major roosting sites for Cormorants in the winter. Although Cormorants were found in LMC, it did not mean that Cormorants would move to any other places if their roosting sites were affected. As the behaviour of Cormorants could hardly be predicted, a “precautionary approach” should be adopted to protect their existing roosting sites as far as possible;
- (c) although the applicants’ proposed mitigation measures were in the right direction to address the adverse impacts created by the proposed development, the “no-net-loss in wetland” principle could refer to both the wetland area and ecological functions served by the existing fish ponds. Apart from those on waterbirds, the disturbance impacts on other wetland wildlife species such as Bent-winged Firefly and Cormorant would also result in a loss of wetland functions of the Site. In that regard, the current application could not be considered as complying with the “no-net-loss in wetland” principle;
- (d) the proposed development scale with an additional population of 6,500 was considered excessive in such an ecologically sensitive area. Given some mitigation measures that were theoretically feasible might not be practical in reality and the wetland functions once lost could hardly be restored, a “precautionary approach” had been adopted in considering the current application;
- (e) a tidal pond was a pond that the water level was influenced by the tides. It provided an important habitat for the foraging and roosting of waterbirds; and
- (f) the proposed Development Site (11.6 ha) comprised an existing area of reedbeds (7.1 ha), wet grassland (3 ha) and fishponds (1 ha). As proposed by the applicants, the loss of reedbeds and wet grassland would

be compensated in the existing fishponds in the north-eastern part of NSW, and the overall loss (including secondary loss) of fishponds would be compensated by enhancing the wetland function of the remaining fishponds in NSW and the existing fishponds in LC.

52. In response, Mr M.Y. Wan, with the aid of a PowerPoint slide, made the following points:

- (a) before the development of the Fairview Park, there were lily ponds at the site and a bird called *Pheasant-tailed Jacana* was attracted to the area. The creation of the lily ponds at the LC Site was trying to attract *Pheasant-tailed Jacana* to NSW. The incorporation of tidal ponds was a mitigation measure to address AFCD's concern that the waterbirds at Shan Pui River would be adversely affected by the proposed vehicular bridge;
- (b) as Hong Kong's sea level was rising due to global warming, the high-tide roosts made in the 1960s at Mai Po would be progressively flooded by the rise in sea level and would need to be maintained. In the current application, the predicted rise in sea level had been taken into account in the design of the bunds with a view to ensuring that the roosting area for waterbirds would not be affected;
- (c) some of the existing *Eucalyptus* trees at NSW, which were planted in the 1950s and 1960s and reaching the end of their life cycle, would gradually die in the coming ten years. A yearly plantation plan had been incorporated in the CMP to ensure that sufficient *Eucalyptus* trees would be available at the Site for Cormorant roosting; and
- (d) all the mitigation measures in the current application were proposed in response to the AFCD's comments with a like-for-like approach.

*Development Option and Fung Lok Wai Approach*

53. Some Members raised the following questions:

- (a) whether the current proposal was the only feasible development option at the Site;
- (b) whether the proposed development had followed the FLW approach, which was previously approved by the Board; and
- (c) whether restricting the Development Site to within 5% to 10% of the total site area was only one of the requirements for the proposed development.

54. In response, Mr Ian Brownlee, the applicants' representative, made the following points:

- (a) the management of the wetland area through the MA projects on the operation of fishponds as promoted by the Government could not resolve the existing problems, which could only be addressed by a comprehensive development scheme. The applicants were trying to achieve the long-term conservation and management objective of the area by a comprehensive development proposal, which was made in accordance with the planning intention of the "OU(CDWEA1)" zone;
- (b) TPB PG-No. 12C had provided the basis for the proposed development. It was stated in paragraph 6.3 of the guidelines that development of that nature should require minimum pond filling and be located as far away from the Deep Bay and/or adjoining to existing development site. Adherence to the "no-net-loss" principle would be important to ensure no decline in the wetland functions, which referred to provide abundant and accessible food and roosting ground to ardeids and other species;



- (c) among the wetland wildlife species identified in the EcoIA, Bent-winged Firefly was the target species to protect. With the comprehensive wetland management proposal, the number of Bent-winged Fireflies in the area would not be reduced. Regarding the Cormorants, the applicants were not saying that they could move to any other areas such as LMC, but to other fishponds or the trees purposely planted for their roosting within the Site;
- (d) although AFCD had concern on the loss of wetland function due to the large development scale and the potential human disturbance, they had no adverse comment on the wetland management proposal. The proposed mitigation measures such as fencing and screening of the wetland area could help maintain the wetland function, thus complying with the “no-net-loss in wetland” principle and the “PPP approach”;
- (e) in the review of the previous planning application No. A/YL-NSW/218, it was stated in paragraphs 46 and 49 of the minutes that the FLW case, with a development site of 5% of the whole development, was a relevant reference for considering the current proposal in NSW. Besides, the partnership approach was to allow limited private development by filling up a small portion of fish ponds (say 5% to 10%) in exchange for a better management of the remaining ponds within the site. The current application was made in accordance with that approach;
- (f) there was restriction on GFA but not building height in the “OU(CDWEA1)” zone, which provided flexibility for the proposed development. The current development proposal with sensible layout for houses and high-rise building blocks to avoid the Cormorant roosting area and flight paths had closely followed the requirements of the OZP and TPB PG-No. 12C; and
- (g) the current proposal was the best the applicants could offer after several years of study. The only outstanding issue was that the mitigation measures for the development portion of the Site had yet to be accepted

by AFCD.

55. In response, Ms Maggie M.Y. Chin, with the aid of some PowerPoint slides, made the following points:

- (a) although the current application at NSW was comparable to the FLW development scheme in terms of total plot ratio (FLW: 0.185; NSW: 0.18), the two were different in terms of development parameters, layout and acceptability of technical assessments:
  - (i) development parameters: there were differences in the number of blocks (FLW: 19; NSW: 28), building height (FLW: 15 to 19 storeys, maximum 64.9mPD; NSW: 19 to 25 storeys, maximum 85.5mPD) and development mix (FLW: no house; NSW: 140 houses);
  - (ii) layout: the development site (5%) in the FLW scheme was located at the southern end adjacent to a knoll. A stepped building height profile was adopted to echo with the knoll in the backdrop. The Development Site (7%) in the current application was located in a relatively flat area;
  - (iii) technical assessments: the environmental impact assessment (EIA) for FLW scheme was approved by EPD in 2009 under the EIA Ordinance prior to the section 16 application. Relevant government departments including AFCD had no adverse comments on the technical assessments. However, the technical assessments, i.e. the EcoIA and TIA in the current application had yet to be accepted by relevant government departments; and
- (b) based on the Fishpond Study, it might be acceptable to allow limited development by filling up a small portion of fish ponds (say 5% - 10%) in exchange for a better management of the remaining ponds within the site. Apart from that requirement, other requirements such as

“precautionary approach”, “no-net-loss in wetland” principle and the “PPP approach” should also be met.

#### *Restriction on Public Access*

56. A Member asked how the wetland area would be managed and the public access restriction be enforced, and whether there would be any mechanism for undertaking enforcement actions against non-compliance. In response, Mr M.Y. Man said that reference could be made to Nan Lian Garden in Diamond Hill, which was a joint project of the Chi Lin Nunnery and the Government. After completion of the project, Chi Lin Nunnery had taken up the daily maintenance and management of the garden under an agreement. At present, public access to the wetland area at the Site was not put under control. The proposed fencing of the wetland area could avoid unauthorised human intrusion and the public access restriction would be enforced by security guards at the Site. However, since the security guards did not have prosecution power, police would be called if and when necessary.

#### *Visual Impact*

57. Two Members raised the following questions:

- (a) whether the proposed reduction of one building block in the review application had addressed the adverse visual impact of the proposed development; and
- (b) whether there was any photomontage prepared for the proposed development.

58. In response, Ms Maggie M.Y. Chin, with the aid of some PowerPoint slides, made the following points:

- (a) the reduction of one building block was mainly to address AFCD’s concerns on the negative impacts of the high-rise apartment blocks on the existing Cormorant roosts by adjusting the layout and increasing the

buffer distance from 150m to 400m. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L) of PlanD did not consider that the proposed changes could address the adverse visual impact of the proposed development. Although there were existing high-rise developments near the wetland park in Tin Shui Wai as mentioned by the applicants' representatives, it should be noted that those developments were not located within the WCA; and

- (b) a number of photomontages had been provided by the applicants to demonstrate the visual impact of the proposed development. Areas to the immediate south of NSW were occupied by village type developments such as Chung Hau Yu Man San Tsuen. To its south-west were fishponds and a driving school. Major developed areas were mainly located to the west and further south-west of NSW, which included Yuen Long Industrial Estate (1 to 6 storeys) and Tung Tau Industrial Area (2 to 19 storeys).

### *Elderly Centre*

59. Noting that persons suffered from alzheimer's diseases could be quite young, a Member asked what the age group the proposed elderly centre aimed to serve. In response, Mr M.Y. Man said that the current proposal mainly focused on the facility to be provided and the building structure for that facility. The main purpose of the elderly centre was to address the problem of aging population, and the parents for persons suffered from alzheimer's diseases could be quite old. Apart from the aged, the centre would also provide services to those in need.

60. As Members still had questions to raise, the Chairman said the meeting would be adjourned for lunch break and the Question Session would be continued in the afternoon.

61. The meeting was adjourned for lunch break at 1:25 p.m.

[Dr Lawrence K.C. Li, Mr Andy S.H. Lam, Mr Stephen H.B. Yau, Dr Wilton W.T. Fok and Mr Martin W.C. Kwan left the meeting at this point]

62. The meeting was resumed at 2:40 p.m.

63. The following Members and the Secretary were present in the afternoon session:

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 Sunny L.K. Ho

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

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 Wilson Y.W. Fung

Dr C.H. Hau

Mr Alex T.H. Lai

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

Director of Planning

Mr Raymond K.W. Lee

[Dr Lawrence W.C. Poon returned to join the meeting at this point.]

### **Fanling, Sheung Shui and Yuen Long East District**

#### **Agenda Item 3 (Continued)**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-NSW/242

Proposed Comprehensive Development with Wetland Enhancement (including House, Flat, Wetland Enhancement Area, Nature Reserve, Visitors Centre, Social Welfare Facility, Shop and Services) as well as Filling of Land/Pond and Excavation of Land in "Other Specified Uses" annotated "Comprehensive Development and Wetland Enhancement Area 1" and "Site of Special Scientific Interest (1)" Zones, Lots 1520 RP, 1534 and 1604 in D.D.123 and Adjoining Government Land, Nam Sang Wai and Lut Chau, Yuen Long, New Territories (TPB Paper No. 10248)

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[The item was conducted in English/Cantonese.]

#### **Presentation and Question Sessions (Continued)**

64. The following government representatives and the applicants' representatives were invited to the meeting at this point:

- Ms Maggie M.Y. Chin - District Planning Officer/ Fanling, Sheung Shui & Yuen Long East (DPO /FS&YLE), Planning Department (PlanD)
- Ms Emily P.W. Tong - Senior Town Planner/Yuen Long East 1 (STP/YLE1), PlanD
- Miss Helen H.Y. Chan - Town Planner/Yuen Long East 1 (TP/YLE1), PlanD
- Mr K.S. Cheung - Senior Wetland & Fauna Conservation Officer (SWFC), Agriculture, Fisheries and Conservation Department (AFCD)
- Ms Sunny W.S. Chow - Wetland & Fauna Conservation Officer/Wise Use (WFCW), AFCD
- Mr K.M. Wong - Senior Engineer/North West (SE/NW), Transport Department (TD)
- Mr Ian Brownlee ] Applicants' representatives
- Mr M.Y. Wan ]
- Mr Frankie Cheng ]
- Mr Mike Leven ]
- Lisa Yue ]
- Ms Iris Hoi ]
- Ms Ivy Yim ]
- Mr Alvin Au Yeung ]
- Mr Alan Pun ]

65. The Chairman said that the meeting was a continuation of the Question Session of the item and invited questions from Members.

*Previous Planning Permission*

66. A Member asked if the validity of the planning permission for application No. A/DPA/YL-NSW/12 depended on whether the application for extension of time (EOT) for commencement of the proposed development would be approved or not. In response, Ms Maggie M.Y. Chin, DPO/FS&YLE, said that the fourth EOT application was rejected by the Rural and New Town Planning Committee (RNTPC) and the applicants had sought a review of the RNTPC's decision. As the Town Planning Board (the Board) decided on 28.10.2011 to accede to the applicants' requests to defer the consideration of the review pending the determination of an appeal lodged against the Town Planning Appeal Board (TPAB) in relation to the fulfillment of approval conditions, the EOT application would need to be considered at a later stage. The validity of the planning permission would depend on whether the EOT application was approved by the Board or not. Regarding what constituted a commencement of the proposed development, it should be noted that in general, approval of building plans or the execution of land grant/lease modification could be considered as constituting a commencement of development.

*Wetland Conservation and Management*

67. Some Members raised the following questions:
- (a) Whether the applicants would consider implementing Private-Public Partnership (PPP) scheme on the private land in Lut Chau (LC) in collaboration with the existing fish pond operators;
  - (b) whether pond filling was required for wetland conservation at the application site (the Site); and
  - (c) whether there was any successful case for reedbed restoration in Hong Kong.

68. In response, Mr Ian Brownlee, Mr M.Y. Wan and Mr Mike Leven, the applicants' representatives, made the following points:



- (a) the management agreement (MA) project currently undertaken at the Deep Bay area was not promising nor comprehensive as it only covered fish ponds but not mangroves. Besides, a number of government departments would need to be involved to handle the suspected unauthorised development cases. To achieve long-term conservation objective, the fish ponds under both government and private land should be taken back for comprehensive maintenance and management by a single body. The current planning application was aimed to achieve that long-term conservation objective in accordance with the planning intention of the outline zoning plans (OZPs);
- (b) no pond filling was required for reedbed restoration at the Site. As the existing commercial fish ponds could hardly achieve the long-term conservation objectives, it was proposed to re-profile the fish ponds by adjusting the water depth to a suitable level for reed growing; and
- (c) the key factor in reedbed restoration was water depth, with the best level at 40-80cm. The water level, which could be managed by adding/letting out water in the pond, was determined case by case.

69. In response, Ms Sunny W.S. Chow, WFCW of AFCD, made the following points:

- (a) the MA project in Lut Chau (LC) was implemented by a green group in collaboration with fish pond operators. The Government had no plan to implement PPP scheme in LC with the landowners. Although LC was proposed to be converted into a nature reserve in future, it did not mean that the enforcement action currently undertaken by concerned government departments would not need to be carried out; and
- (b) there were currently management plans to enhance the wetland habitat in Mai Po by restoring the reedbeds in the area. Reed was an aquatic plant which could survive in a range of water depths, and in both brackish and freshwater environment. The water depth for reed growing was up to 1m. No pond filling would be required for reedbed creation.

*Traffic Arrangement*

70. The Chairman and a Member raised the following questions:

- (a) whether Nam Sang Wai (NSW) Road, which was a public road at the moment, could be used as access to the proposed Development Site; and
- (b) how through traffic could be prohibited from using NSW Road via the new access road proposed by the applicants, and how the traffic restriction could be enforced.

71. In response, Ms Maggie M.Y. Chin, DPO/FS&YLE, and Mr K.M. Wong, SE/NW of TD, with the aid of some PowerPoint Slides, made the following points:

- (a) NSW Road was a public road but would not be used as the access road to the Development Site. The applicants proposed to build a new vehicular bridge with footpath and cycle track to connect the Development Site with Wang Lok Street at the Yuen Long Industrial Estate. According to the applicants' proposal, NSW Road would be maintained as a public road in future; and
- (b) given access to the visitor centre in the proposed public park via NSW Road was not satisfactory, the applicants proposed a new access road in the section 17 Scheme to connect NSW Road with the Development Site to allow shuttle bus service of the visitor centre to use the proposed vehicular bridge. Apart from those shuttle buses, through traffic to NSW Road via the Development Site and the new vehicular bridge would be prohibited by a control barrier in the new access road. As such, although NSW Road would be physically connected to the Development Site, the applicant would prohibit through traffic from the Development Site to NSW Road by administrative measures. However, TD had reservation on the proposed access road arrangement.

72. In response, Mr Ian Brownlee and Mr M.Y. Wan, with the aid of some PowerPoint Slides, made the following points:

- (a) given NSW Road was a two-way single lane road which could not cater for the vehicular traffic to/from the Development Site, a vehicular bridge was proposed to connect the Development Site with Wang Lok Street;
- (b) the proposal to connect NSW Road with the proposed new access road to the Development Site was mainly to facilitate the provision of shuttle bus services from the visitor centre to the Mass Transit Railway station. No through traffic from the Development Site to NSW Road would be allowed. A control barrier, which would be managed by the management office of the visitor centre, was proposed at the access road such that only shuttle bus service to/from the visitor centre was allowed. Should the application be approved and the applicants be entrusted to manage the whole Site including the wetland enhancement area and nature reserve in future, the applicants would take up the management of the relevant components of the proposal as mentioned in the application; and
- (c) as no major change could be proposed at the section 17 review stage, the access road arrangement was proposed to provide vehicular access to the visitor centre. Should the Master Layout Plan (MLP) be amended in future, a better option could be adopted by relocating the visitor centre to the north of the elderly centre such that the proposed access road for the elderly centre could serve the visitor centre as well.

#### *Human Disturbance*

73. Noting the permissible gross floor area (GFA) on the OZP, the Vice-chairman asked what the specific concern of AFCD was on the potential human disturbance and whether such disturbance was insurmountable. In response, Ms Sunny W.S. Chow said that the use of wetland habitats by wildlife species would be affected by the physical presence of high-rise residential buildings, as well as noise and human activities. Although the Ecological Impact Assessment (EcoIA) submitted by the applicants had proposed mitigation measures such as fencing and screening to minimize potential human disturbance, it was doubted if the measures

were adequate to mitigate the adverse impacts caused by such a large development with a new population of 6,500 on the wetland wildlife species.

*Trees in NSW*

74. A Member raised the following questions:

- (a) AFCD's views on the applicants' prediction that the existing *Eucalyptus* trees in NSW would die gradually in the next ten years; and
- (b) whether there was any management measures for the trees by the Government.

75. In response, Ms Sunny W.S. Chow said that she did not have information on the lifespan of *Eucalyptus* trees at hand. In general, trees could have a very long lifespan. There was no information to show that the *Eucalyptus* trees were reaching the end of their life cycle and the aging of the trees would affect the Cormorant roost. As such, there was no imminent need to take mitigation measures.

76. Mr Mike Leven supplemented that the average lifespan of *Eucalyptus* trees was about 60 years. As the *Eucalyptus* trees were planted about 40 years ago, it was predicted that most of the trees would die gradually within the next 20 years roughly. There was record that some trees had died already. As 30 years were required for the trees to grow big enough for Cormorant roost, actions should be taken in advance before the crisis would arise. A long-term management plan was required to replace the trees constantly such that trees with different ages would be available in the area.

*Cormorant Roost*

77. Noting that the proposed developments might be higher than the existing developments in the surrounding areas, a Member asked if the Cormorant roost would be adversely affected by the high-rise residential buildings.

78. In response, Mr M.Y. Man and Mr Mike Leven, with the aid of a PowerPoint Slide, made the following points:

- (a) in terms of ecological impact, it should be noted that the existing developments at Tin Shui Wai right next to Hong Kong Wetland Park (HKWP) had building heights greater than 40 storeys. As such, AFCD's view that high-rise residential buildings would cause disturbance impact on Cormorant roost was unfounded. In the current application, the proposed Development Site was located at the south-western corner of the Site, which was an ecologically less sensitive portion to avoid the flight paths and the adverse impacts on the wetland wildlife species. The high-rise residential buildings had also been relocated farther away from the Cormorant roost by increasing the buffer distance from 150m to 400m to address AFCD's concern. In terms of visual impact, the proposed developments at the Site would not be as high as those in Tin Shui Wai and would only be slightly higher than those in the adjacent industrial areas; and
- (b) the conservation plan for Lok Ma Chau Ecological Enhancement Area (LMC EEA) was started 15 years ago. It was recently noted that Cormorants were attracted to the area when the trees were big enough, although LMC EEA was very close to LMC station and the high-rise buildings in Shenzhen were just about 300m away. In the current application, the buffer distance between the Cormorant roost and the high-rise residential buildings had been increased from 150m to 400m as a precautionary approach, such that about 90% of the Cormorant roosting trees were located outside the buffer zone. For the Cormorant roosts which were too close to the high-rise residential buildings, there was ample capacity for them to move to nearby trees about 200-300m away. The current proposal had already provided adequate mitigation measures to achieve 90% avoidance and 10% compensation for the Cormorant roost, and a long-term management plan to ensure that the trees would be replaced constantly in order to maintain continuity in the natural habitat for the Cormorant roost.

79. In response, Ms Sunny W.S. Chow and Ms Maggie M.Y. Chin, with the aid of the visualizer, made the following points:

- (a) the situation in Tin Shui Wai could not be considered as a relevant reference as no Cormorant roost was found in HKWP. As roosting Cormorant was considered more sensitive to disturbance, a precautionary approach should be adopted if the proposed high-rise developments were close to Cormorant roost; and
- (b) the development context in Tin Shui Wai was also different from that at the Development Site. The existing high-rise developments in Tin Shui Wai were located outside the Wetland Buffer Area (WBA) but the proposed developments at the Site was located within the Wetland Conservation Area (WCA), which was subject to the Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under section 16 of the Town Planning Ordinance” (TPB PG-No. 12C).

*Building Height Control*

80. Two Members raised the following questions:

- (a) why there was no building height (BH) restriction in the “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area 1” (“OU(CDWEA1)”) zone on the OZP; and
- (b) how the development bulk at the Site could be subject to control.

81. In response, Ms Maggie M.Y. Chin, with the aid of the visualizer, made the following points:

- (a) although there was no BH restriction in the “OU(CDWEA1)” zone, it did not mean that there was no concern on the development bulk. The future development would be subject to the GFA restriction on the OZP and compliance with the relevant guidelines under TPB PG-No. 12C. While

development intensity and bulk were major concerns, flexibility was provided for the applicants to adopt different BH profile in accordance with the physical topography of individual sites. For example, a stepped BH profile had been adopted in the Fung Lok Wai (FLW) development to echo with the knoll in the backdrop to minimize the visual impact;

- (b) according to TPB PG-No. 12C, the existing and contiguous fish ponds with high conservation value in the Deep Bay area had been designated as WCA, and a buffer area of about 500m along the landward boundary of the WCA had been designated as WBA with the intention to protect the ecological integrity of the fish ponds and wetland within the WCA;
- (c) new development within the WCA would not be allowed unless it was required to support the conservation of the ecological value of the area. Besides, development should comply with the “precautionary approach”, “no-net-loss in wetland” principle and “PPP approach”. Areas within the WCA had mainly been designated as conservation zones on the relevant OZPs. Among them, various sites had been designated as “OU” for comprehensive development with wetland enhancement, protection or restoration, with a view to striking a balance between conservation and development. Any proposed development should be in form of a comprehensive development scheme for the approval of the Board; and
- (d) developments within the WBA acted as a transition/buffer between the developments outside WBA and those within WCA. The existing developments in the WBA were mainly village type and low-rise developments. The two sites within WBA adjacent to HKWP in Tin Shui Wai as mentioned by the applicants were zoned “Comprehensive Development Area” on the OZP with a maximum plot ratio (PR) of 1.5 and a maximum BH of 10 storeys over one storey basement car park.

*Land Ownership of the Site*

82. A Member raised the following questions:

- (a) whether the land ownership of the Site had changed over the years; and
- (b) whether the promises made by Mr Adrian H.C. Fu in the presentation session represented the views of the other land owners.

83. In response, Mr M.Y. Man, made the following points:

- (a) the private land in the NSW Site was purchased by the Fu family in the 1960s and the land was held under NSW Development Company Limited. The Fu family entered into a joint venture with Henderson Land Development Company Limited (Henderson) in 1990 in that Henderson purchased 50% of the shares of NSW Development Company Limited, and Kleener Investment Limited, the subsidiary of Henderson, purchased the private land in the LC Site for conservation purposes. As such, the private land in the NSW Site was still held under NSW Development Company Limited, for which half of the shares were held by Henderson; and
- (b) regarding the development proposal at the Site, the Fu family did not consider that the scheme of golf course cum residential development (planning application No. A/DPA/YL-NSW/12) should be further pursued, and proposed that more wetland conservation works should be carried out. In 2010, Henderson agreed that the Fu family should take over the planning works of the proposed development at the Site. Henderson was aware of and agreed with the subsequent planning applications and the promises made by the Fu family. The appeal to the Court of Final Appeal regarding planning application No. A/DPA/YL-NSW/12 was carried forward by Henderson with a view to clarifying some legal points.



*Land Matters*

84. The Chairman and some Members raised the following questions:

- (a) what the proportion of government land and private land was in the FLW development as compared with the current application, and what the PR for the proposed development was if government land was excluded from calculation;
- (b) how the government land was granted to the applicant under the FLW development;
- (c) whether incorporating government land was a prerequisite for the implementation of the “PPP approach” under the current application; and
- (d) what the applicants’ plan on land matters was if planning permission for the current application was granted.

85. In response, Ms Maggie M.Y. Chin, made the following points:

- (a) the proportions of government land and private land in the FLW development were 2% and 98% respectively, while the current application were 46% and 54% respectively. If the government land was excluded, the PR of the current application as about 0.335; and
- (b) the FLW development had not yet proceeded to the land grant stage. In general, for PPP scheme under the New Nature Conservation Policy (NNCP), if policy support was given by relevant bureau for the proposed development under the NNCP for the conservation areas including the relevant government land, Lands Department (LandsD) would consider the land exchange application according to the land arrangement under the NNCP.

86. In response, Mr Ian Brownlee and Mr M.Y. Wan made the following points:

- (a) it was the requirements under the OZPs that any development within the “OU(CDWEA1)” zone in the NSW Site was required to be developed together with the “Site of Special Scientific Interest (1)” (“SSSI(1)”) zone on the LC Site in a comprehensive and integrated manner, and a layout plan covering the two zones should be submitted to the Board for consideration. Given there were government and private lands on both sites and the planning intention was to allow residential development in the NSW Site in exchange for long-term conservation of both sites, the wetland area on government land in both sites could not be excluded from conservation management. The current application was made in accordance with the requirements of the OZPs; and
- (b) uses allowed under the existing lease for the NSW Site included agriculture and fish pond, as well as private residential development. It was noted that using fish ponds for the implementation of PPP scheme under the NNCP would breach the lease conditions. As such, if the current application was approved, the applicants would consider surrender all private land within the Site to the Government in exchange for standalone new land grants/short-term tenancies (STT) of government land for private residential development, Home Ownership Scheme (HOS) development, elderly centre and conservation purposes. It would be up to the Government to decide if land grant or STT of government land was appropriate for such uses.

*Private-Public Partnership Approach*

87. The Chairman and some Members raised the following questions:

- (a) how the “PPP approach” could be implemented at the Site;
- (b) whether the applicants had explored other implementation approach apart from the “PPP approach”; and

- (c) whether the applicants would consider resubmitting a planning application after the technical assessments, such as an environmental impact assessment (EIA), and the implementation issues under the “PPP approach” were accepted by relevant government departments.

88. In response, Mr M.Y. Wan and Mr Ian Brownlee made the following points:

- (a) as the green groups were bundled together to object to any development at the Site, they might not participate in the future PPP scheme. The applicants were planning to liaise with relevant organizations in other countries which had experiences in wetland park management, with a view to identifying a competent body to take up the long-term management of the conservation area in the Site;
- (b) although other development approach could always be explored, it should be noted that the applicants were bound by the statutory requirements of the OZPs and TPB PG-No. 12C in that any low-density private residential development within the “OU(CDWEA1)” zone in exchange for committed long-term conservation and management of the remaining wetland area should be carried out in a “PPP approach”. The current application had followed the Wo Shang Wai development scheme, which had adopted a “PPP approach” for the conservation of about 4 ha of wetland in the site;
- (c) in the Wo Shang Wai development approach, planning permission on the location and form of the proposed development as well as the extent of wetland conservation was obtained before the EIA was carried out and the wetland management details were sorted out. Given the complexity of the current application, the Board might not agree on the location and form of the proposed development even if approval of the EIA was obtained. As such, the Board should be the first approving authority for the project to proceed;

- (d) in the current application, the EcoIA and the Conservation and Management Plan (CMP) had been revised three times to take on board the comments of AFCD and the major hurdles had been overcome. However, requesting a government department to agree with the proposed development would impose too much political pressure on the civil servants under the current situation. It should be the Board and the applicants to bear the political pressure;
- (e) even if the planning permission was granted, there was still stringent control mechanism to guide the future development, which included approval conditions, EIA Ordinance, Environment and Conservation Fund and lease conditions; and
- (f) should planning permission be granted by the Board, there would be a firm basis for the applicants to carry out downstream works such as conducting an EIA, sorting out the land matters with LandsD, identifying a competent management agent for the conservation area and complying with the other requirements under the “PPP approach”. If the Environmental Permit was granted and the land was available to the applicants, the applicants would implement the conservation proposals in the conservation areas by phases before the residential development commenced.

#### *Development Mix and Intensity*

89. In response to two Members' questions, Mr M.Y. Wan said that the incorporation of houses in the proposal was mainly due to business consideration that houses would be more marketable. However, the proposed GFA of the houses had already been reduced to about 15% of the total domestic GFA to address departmental concerns. The Development Site, which occupied only about 7% of the total site area, had complied with the criterion that the proportion of the development site should be confined within 5-10% of the total site area. If the elderly centre and Home Ownership Scheme (HOS) would not be pursued, the Development Site area could be further reduced by 1 ha. Besides, a stepped building height profile with houses located adjacent to the wetland area and high-rise residential buildings farther away had already been adopted.

### *Home Ownership Scheme*

90. Noting that the applicants had proposed that some small residential units could be used as HOS, a Member asked if the Transport and Housing Bureau (THB) had been consulted on the proposal. In response, Mr M.Y. Wan said that as the planning application had yet to be approved by the Board, there was no basis to contact THB for the proposed HOS development.

### *Visitor Centre*

91. In response to the Chairman's question, Ms Maggie M.Y. Chin said that both the proposed public park and visitor centre were located on government land. The Leisure and Cultural Services Department and AFCD advised that they would not take up the long-term management and maintenance of the public park and the visitor centre respectively.

### *Club House and Commercial Centre*

92. In response to a Member's question on the need of club house and commercial centre for the proposed development, Mr M.Y. Wan said that those facilities were very common in new residential developments. The proposed facilities would be of small scale, with a swimming pool and function rooms in the club house, and a supermarket and convenient store in the commercial centre to provide basic necessities to the local residents.

93. As Members had no further question, the Chairman informed the applicants' 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 applicants of the Board's decision in due course. The Chairman thanked the applicants' representatives and government representatives for attending the meeting. They left the meeting at this point.

94. As the applicants and their representatives of the review applications under Agenda Items 4 and 5 had arrived, Members agreed to postpone the deliberation of Agenda Item 3 to the later part of the meeting and proceed to consider Agenda Items 4 and 5 first.

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

[Mr Alex T.H. Lai and Ms Sandy H.Y. Wong left the meeting at this point, and Mr David Y.T. Lui left the meeting temporarily at this point.]

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

### **Tuen Mun & Yuen Long West District**

#### **Agenda Item 4**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-TT/392

Temporary Warehouse for Storage of Vehicle Parts for a Period of 3 Years in “Agriculture” zone, Lots 1739 RP (Part), 1740 (Part) and 2385 (Part) in D.D. 118 and Adjoining Government Land, Tong Tau Po Tsuen, Yuen Long, New Territories (TPB Paper No. 10249)

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[The item was conducted in Cantonese.]

#### **Presentation and Question Sessions**

95. The following representative of the Planning Department (PlanD) and the applicants’ representative were invited to the meeting at this point:

Mr David C.M. Lam - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLW), PlanD

Mr William S.W. Wong - Applicants’ representative

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

97. With the aid of a PowerPoint presentation, Mr David C.M. Lam, DPO/TM&YLW, 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 applicants, and planning considerations and assessments as detailed in TPB Paper No. 10249.

98. The Chairman then invited the applicants' representative to elaborate on the review application. Mr William S.W. Wong made the following main points:

- (a) the application site had been used for open storage purpose since 1990. The current application was for a temporary warehouse at the application site;
- (b) the storage use at the application site had not been subject to any complaint from the local residents in terms of adverse environmental impact or nuisance. Those public comments raising objection to the application were not submitted by the local residents; and
- (c) the applicants would endeavor to comply with the approval conditions imposed by the Board. It was hoped that the Board would approve the application.

99. As the presentations of DPO/TM&YLW and the applicants' representative were completed, the Chairman invited questions from Members.

100. The Chairman and some Members raised the following questions:

- (a) whether the application site had been used for open storage purpose since 1990 and hence exempted from enforcement action;
- (b) when the structure at the application site was constructed; and
- (c) should the review application be rejected, whether the applicants would be required to reinstate the application site.

101. In response, Mr David C.M. Lam, DPO/TM&YLW, made the following main points:

- (a) according to the information provided by the applicants, the application site had been used for open storage purpose since 1993 instead of 1990;
- (b) to determine the 'Existing Use' of the application site, reference should be made to the physical conditions of the site when the relevant Interim Development Permission Area Plan was first published in 1990. According to an aerial photo taken on 16.7.1991, the application site was agricultural land covered with vegetation. The record of land use surveys conducted in 1991 also indicated that the application site was agricultural land at that time;
- (c) the application site was the subject of a previous application approved by the RNTPC in 1994 when the site fell within the "Unspecified Use" area on the prevailing Development Permission Area Plan at that time. Since then, there had been no approved application involving the application site. There was no official record in respect of the completion date of the structure at the application site;
- (d) the current use at the application site was not an existing use or permitted use under the Outline Zoning Plan (OZP), nor was it covered by a valid planning permission. Subject to the investigation by PlanD, if the current use on the application site constituted an unauthorized development (UD) under the Town Planning Ordinance, enforcement action would be instigated in accordance with the established practice; and
- (e) enforcement action had previously been taken against the unauthorised storage of timber at the application site in 2001 and the UD was subsequently discontinued.



102. 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 applicants' representative and inform the applicants of the Board's decision in due course. The Chairman thanked the representatives of PlanD and the applicants for attending the meeting. They left the meeting at this point.

### Deliberation

103. Members noted that the applicants had not provided any new grounds to support the review application. As there was no major change in the planning circumstances of the case since it was rejected by the RNTPC, there was no strong planning justification to warrant a departure from the RNTPC's decision.

104. A Member did not support the application as the applied use was not an 'Existing Use' and not in line with the planning intention of the "Agriculture" zone for the site.

105. 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” (“AGR”) 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, even on a temporary basis;
- (b) the applicant fails to demonstrate that the development would not generate adverse environmental and landscape impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such application would result in general degradation of the rural environment of the area.”

**Sha Tin, Tai Po & North District**

**Agenda Item 5**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/TP/613

Proposed House (New Territories Exempted House - Small House) in “Green Belt” zone,  
Lot 918 S.A ss.1 in D.D. 26, Wong Yue Tan Village, Tai Po, New Territories  
(TPB Paper No. 10250)

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[The item was conducted in Cantonese.]

106. The Chairman had declared interest in the item as he co-owned with spouse a townhouse near Wong Yue Tan. The Vice-chairman took over the chairmanship of the meeting at the juncture.

[The Chairman left the meeting temporarily at this point.]

107. The following representative of the Planning Department (PlanD), the applicant and his representative were invited to the meeting at this point:

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

Mr C.K. Cheung - Applicant

Mr Thomas W.F. Lui - Applicant's representative

108. The Vice-chairman extended a welcome and explained the procedure of the review hearing. The Vice-chairman then invited DPO/STN to brief Members on the review application.

109. 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. 10250 (the Paper).

110. Mr C.K. Cheung, the applicant, made the following main points:

- (a) after returning from abroad to Hong Kong in 2003, he intended to apply to build a Small House at Lot 919 in D.D. 26. Since a portion of that lot had been occupied by a local access road constructed by the District Office/Tai Po (DO(TP)) in 2000 to serve the village, the residual area of the lot was insufficient for accommodating a Small House;
- (b) he had discussed with the relevant government departments including the DO(TP) and District Lands Office/Tai Po (DLO/TP), and was told that the alignment to the access road should be changed before his Small House grant application could be processed, and consent of the owners of the adjacent lots should be sought before the re-alignment of the local access road;
- (c) despite some villagers had suggested him to block off the local access road to allow for the building of Small House at Lot 919 in D.D. 26, the suggestion was not taken forward after considering that the access road was essential to serve the villagers especially the elderly people;
- (d) according to DLO/TP and DO(TP), there was no government land available within Wong Yue Tan Village for Small House development;
- (e) since Wheelock Properties Limited (Wheelock) had acquired most of the land in Wong Yue Tan Village, he approached Wheelock in 2008 to seek its consent to re-align the local access road northwards with a view to allowing more space for development of a Small House in Lot 919 in D.D. 26. However, his request was turned down by Wheelock;
- (f) while Wheelock was unwilling to sell those lots within the “V” zone to the villagers, it did offer to sell out those lots to the west of Lot 919

including Lot 918 s.A. Noting that Lot 918 s.A was located within the village 'environs' ('VE'), he purchased that lot from Wheelock. He also made an arrangement with his cousin to sub-divide Lot 918 s.A so that they could each apply to build a Small House in the application site (i.e. Lot 918 s.A ss.1) and in Lot 919 amalgamated with the remaining portion of Lot 918 s.A respectively;

- (g) it was subsequently found out that the application site was located outside the "Village Type Development" ("V") zone and hence planning permission from the Board was required for the proposed Small House;
- (h) both Lots 918 s.A and 919 were previously cultivated land in the 1960s and 1970s. The farming activities had been abandoned since the late 1970s after the younger generation of villagers had immigrated to other countries for living and work. The lots were then over-grown with vegetation. That said, all the mature trees were located to the further south outside the lots;
- (i) after the construction of the local access road, the remaining part of Lot 918 s.A had been used for car parking by villagers. As he only bought the concerned lot from Wheelock in 2015, he was not aware of the 'destroy first, develop later' issue thereon;
- (j) there were six similar applications for Small House development approved with conditions by the RNTPC between 2010 and 2012 and one of the grounds was that there was a general shortage of land to meet the demand for Small House development in the concerned "V" zone at the time of consideration. Given that most land within the village had been developed and the 'VE' of Wong Yue Tan had remained unchanged since then, it was doubtful why PlanD stated in the current application that there was sufficient land available within the "V" zone to meet the Small House demand; and

- (k) should the review application be approved, landscaping measures would be implemented to improve the environment.

111. Mr Thomas W.F. Lui, the applicant's representative, made the following main points with the aid of the visualiser:

- (a) the number of similar applications approved within the "Green Belt" ("GB") zone in Wong Yue Tan should be 22 instead of six as stated in paragraphs 5.7 to 5.9 of the Paper; and
- (b) as indicated by a plan showing the use of land within the "V" zone of Wong Yue Tan, there was no land available within the "V" zone for villagers to build Small Houses since a large area of land within the "V" zone were occupied by trees or located on low-lying wetland which were unsuitable for Small House development. Moreover, some land had already been engaged for proposed Small House development or owned by Wheelock. Thus, the applicant would not be able to acquire those lands for Small House development.

112. As the presentations of DPO/STN, the applicant and his representative were completed, the Vice-chairman invited questions from Members.

113. The Vice-chairman and some Members raised the following questions to DPO/STN:

- (a) noting that the application site was paved, whether the proposed Small House development would involve any clearance of vegetation;
- (b) noting from the current review application that there was still sufficient land available within the subject "V" zone for Small House development, why it was considered that there was a general shortage of land in the concerned "V" zone to meet the Small House demand in the consideration of the six previously approved similar applications;

- (c) whether sympathetic consideration could be given to the application given that the application site was located entirely within the 'VE';
- (d) whether planning permission had been granted for Small House development in Lot 919, and whether Lots 918 and 919 could be amalgamated and sub-divided again for building two Small Houses;
- (e) whether there was scope to shift the local access road northwards so as to facilitate the proposed Small House development;
- (f) whether the low-lying wetland within the "V" zone was suitable for Small House development, and whether local access roads within the "V" zone had been included in calculating the land area available for Small House development; and
- (g) whether there were 22 instead of six similar applications previously approved within the "GB" zone as stated by the applicant's representative.

114. In response, Ms Jessica H.F. Chu, DPO/STN, made the following main points:

- (a) according to the aerial photographs taken in 2009 and 2010, removal of vegetation was found in the application site. The applicant claimed in the review application that he acquired the application site in 2015 and was not involved in clearance of vegetation. As the proposed development would not involve clearance of vegetation, it was not included as one of the reasons for not supporting the review application as stipulated in paragraph 9.1 of the Paper;
- (b) since 2013/14, in considering whether land was available within the "V" zone to meet the Small House demand, the Board had adopted a more cautious approach and more weighting had been put on the number of outstanding Small House applications. In the present application, while land available within the "V" zone was insufficient to fully meet the total future demand of 93 Small Houses, about 2.31 ha of land

(equivalent to about 92 Small House sites) was still available within the “V” zone for Small House development which was capable to meet the 43 outstanding Small House applications of Wong Yue Tan;

- (c) for the six similar applications which were approved by the RNTPC between 2012 and 2012, the assessment at that time was carried out based on a greater 10-year Small House demand at that time. On that basis, it was considered that there was a shortage of land within the “V” zone to meet the Small House demand;
- (d) the planning circumstances of the approved similar applications were different as those sites were located at the southern edge of Wong Yue Tan and partly within the “V” zone whilst the subject application site was located entirely within the “GB” zone. Notwithstanding that the application site fell entirely within the ‘VE’ of Wong Yue Tan, the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (Interim Criteria) in that it would cause adverse landscape impacts on the surrounding area;
- (e) provided that Lot 919 was located within the “V” zone, planning permission was not required for Small House development. Amalgamation and sub-division of land lots were subject to the agreement of the concerned owners;
- (f) it was not uncommon to have local access roads passing through private lots in the village areas. DO(TP) advised that to facilitate the proposed Small House development, the local access road had already been re-aligned as requested by the applicant;
- (g) areas falling within the “V” zone were considered suitable for Small House development. In fact, there had been Small House grant applications approved within the area shown as ‘low-lying wetland’ on the plan prepared by the applicant’s representative. Local access roads

within the “V” zone had been excluded from the calculation of land area available for Small House development; and

- (h) for the remaining 16 approved applications for Small House development mentioned by the applicant’s representative, they were within the “GB” zone to the north-east of Wong Yue Tan and were located within the ‘VE’ of another indigenous village in Ting Kok, not Wong Yue Tan.

115. Some Members raised the following questions to the applicant:

- (a) whether Lots 918 and 919 were covered by the same land lease; and
- (b) what the relationship between Lot 918 and Lot 918 s.A was.

116. In response, Mr C.K. Cheung made the following main points:

- (a) Lot 918 was previously owned by his uncle and had been sub-divided into sections A to D which were inherited by his four sons. Lots 918 s.A, s.B, s.C and s.D were later sold to Wheelock;
- (b) he inherited Lot 919 from his father while Lot 918 s.A was bought back by him from Wheelock in 2015. While both lots were previously cultivated land, they were governed by separate land leases; and
- (c) given that his cousin had contributed funds in the purchase of Lot 918 s.A, he had made an arrangement with his cousin to sub-divide Lot 918 s.A so that they could each apply to build a Small House in the application site (i.e. Lot 918 s.A ss.1) and in Lot 919 amalgamated with the remaining portion of Lot 918 s.A respectively.

117. By making reference to Drawing A-1 of the Paper, Ms Jessica H.F. Chu explained that Lots 918 s.B, s.C and s.D were located to the west of Lot 918 s.A and they all formed part of the previous Lot 918.



118. In response to Members' enquiry, Ms Jessica H.F. Chu said that should the review application be approved, the applicant had to apply for a building licence from DLO/TP for the proposed Small House and during that process, views of the concerned government departments would be sought including those related to the impact of the proposed Small House development on the local access road. Mr C.K. Cheung said that it had all along been his intention not to block off the local access road as it was essential to serve the villagers especially the elderly. He would be satisfied if there was land available within his lot for building a Small House after making provision for the local access road. Mr Thomas W.F. Lui supplemented that in terms of impacts on the environment, adjacent slopes and local access road, the proposed Small House development under application was a better option than putting two Small House developments within Lot 919.

119. As Members had no further questions, the Vice-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 and his representative and inform the applicant of the Board's decision in due course. The Vice-chairman thanked the representative of PlanD, the applicant and his representative for attending the meeting. They left the meeting at this point.

#### Deliberation

120. Since Wheelock had been mentioned by the applicant during the presentation, a Member asked whether having current business dealings with Wheelock had to be declared. The Meeting noted that the application had no relationship with Wheelock and agreed that there was no need for that Member to declare interest in that regard.

121. A Member expressed sympathy on the application considering that the applicant had taken the initiative to retaining and re-aligning the local access road, and that the proposed Small House development was located not far away from the village cluster and would not entail significant adverse impact on the surrounding. Although the application site was located entirely within the "GB" zone, the land available within the "V" zone was only sufficient to meet the outstanding Small House applications but not the total future Small House demand.

122. A Member considered that it was more appropriate to concentrate the proposed Small House development within the “V” zone. In the present case, about 92 Small House sites were still available within the “V” zone, which was only one site short of the total Small House demand of 93 (i.e. 43 outstanding Small House applications and a 10-year Small House demand forecast of 50). Other applications had been rejected even with a larger shortage of Small House sites. That Member did not support the review application and the view was shared by two other Members.

123. In response to a Member’s enquiry, the Secretary explained that for those alleged “destroy first, build later” cases, the application should be assessed based on the conditions of the site before actions to destroy the land had taken place. It did not, however, imply that all applications previously involving “destroy first, build later” issue would be rejected.

124. Some Members considered that if the local access road was shifted further northwards, it might be possible to accommodate two Small House developments in Lot 919. Mr Raymond K.W. Lee, the Director of Planning, said that if the footprint of the proposed Small Houses fell within the “GB” zone, planning permission from the Board would be required and such application would be assessed based on the Interim Criteria. The Vice-chairman remarked that the review application should be considered based on the proposal submitted by the applicant.

125. A Member said that based on the established practice, the application should be rejected as it was located entirely outside the “V” zone. However, there were merits in the application since the applicant had made effort to retain and re-align the local access road to serve the villagers. The application site was located not far away from the existing and proposed village houses, and approving the review application might result in a more effective use of land resources. From the land utilization point of view, that Member inclined to support the review application.

126. A Member said that a consistent approach should be adopted in considering such kind of applications. In view that the application site was located entirely outside the “V” zone and there was still land available within the “V” zone for Small House development, the review application was not supported.

127. A Member said that if the review application was approved, it would create an undesirable precedent for other similar applications within the “GB” zone.

128. 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 “Green Belt” zone, which is 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 is a general presumption against development within this zone. There is no strong planning justification provided in the submission to justify a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories in that it would cause adverse landscape impact on the surrounding areas;
- (c) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the natural environment and landscape quality of the area; and
- (d) land is still available within the “Village Type Development” (“V”) zone of Wong Yue Tan 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.”

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

[The Chairman and Mr David Y.T. Lui returned to join the meeting at this point.]

[Dr C.H. Hau, Mr Patrick H.T. Lau and Dr Lawrence W.C. Poon left the meeting at this point.]

**Fanling, Sheung Shui and Yuen Long East District**

**Agenda Item 3 (Continued)**

[Closed Meeting (Deliberation Session)]

Review of Application No. A/YL-NSW/242

Proposed Comprehensive Development with Wetland Enhancement (including House, Flat, Wetland Enhancement Area, Nature Reserve, Visitors Centre, Social Welfare Facility, Shop and Services) as well as Filling of Land/Pond and Excavation of Land in "Other Specified Uses" annotated "Comprehensive Development and Wetland Enhancement Area 1" and "Site of Special Scientific Interest (1)" Zones, Lots 1520 RP, 1534 and 1604 in D.D.123 and Adjoining Government Land, Nam Sang Wai and Lut Chau, Yuen Long, New Territories (TPB Paper No. 10248)

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[The item was conducted in Cantonese.]

**Deliberation Session**

129. The Chairman resumed chairmanship of the meeting and recapitulated that the crux of issues discussed in the presentation and question sessions included (i) whether the development was in line with the planning intention of the relevant zones on the OZPs, including the development scale and conservation and enhancement of ecological value of the existing wetland; (ii) whether the proposal was in line with the TPB PG-No. 12C including the “precautionary approach”, “no-net-loss in wetland” principle and “PPP approach”; (iii) whether the reliance on the use of government land would give rise to uncertainty for the proposed ecological mitigation measures; and (iv) whether the technical assessments submitted could demonstrate no adverse impacts from the proposal. He then invited Members to express their views.

*Planning Intention and Development Scale*

130. A Member noted that the current application would likely have a smaller impact on the ecology of the area in comparison with previous development plans, and the applicants had shown some efforts to address the environmental and ecological concerns. However, the applicants had yet to satisfactorily address the relevant issues as reflected by the assessments

and comments of various government departments. In particular, the scale and intensity of the proposed development was still excessive and would cause disturbance impact on the wetland wildlife species.

131. A Member said that the applicants had yet to demonstrate that the ecological function of the wetland area in the Site would be enhanced as a result of the proposed development. Given the Site was located in WCA under TPB PG-No. 12C, there were stringent requirements to ensure that new development would not be allowed unless it was required to support the conservation of the ecological value of the area. As such, conservation should be the key consideration and the proposed development should be allowed only if it could be demonstrated that there would be “no-net-loss in wetland”. In view of the above, the proposed development intensity at the Site might have to be largely reduced so as to meet the requirements.

132. On request of the Chairman, Mr Raymond K.W. Lee, Director of Planning, explained that the maximum GFA incorporated in the “OU(CDWEA1)” zone on the NSW OZP had been intended to reflect a previous approved planning application No. A/DPA/YL-NSW/12 as upheld by the Privy Council in 1996. The GFA restrictions on the OZP denoted the maximum development intensity that might be possible for the Site, but the applicants still had to demonstrate the scale and intensity of a specific development proposal were in line with the planning intention of “OU(CDWEA1)” zone and TPB PG-No. 12C. Over the years, different planning applications for the Site had been submitted for the Board’s consideration. The application before the Board had a Development Site of 11.6 ha, which was smaller than that in previous applications.

133. A Member was concerned that the addition of about 6,500 inhabitants in NSW would attract more visitors to the grassland, which was already attracting a large number of visitors at weekends. Another Member observed that the proposed development included houses which would likely increase the footprint of the total development.

*‘No-net-loss in wetland’ Principle*

134. Members noted that according to TPB PG-No. 12C, the “no-net-loss in wetland” principle referred to both “area” and “function” of the wetland. In respect of the current application, AFCD considered that the proposed development encroached on habitats of high

ecological value, and the disturbance impacts on the wetland wildlife species, including Bent-winged Firefly and Cormorant, would result in reduced abundance of the concerned species and a loss of wetland function of the area. AFCD advised that the applicants should consider different alternatives of the location of the development to demonstrate that avoidance of encroachment on and disturbance to habitats of high ecological value had been adopted for the proposed development.

135. A Member considered that the applicants failed to demonstrate that the proposed development was located at the ecologically less sensitive area. Although the Development Site was located in the south-western portion of the Site, it was surrounded by fish ponds, reedbeds, wet grasslands and mangroves, and would result in a fragmentation of the existing ecological habitat. Another Member said that there was insufficient information to demonstrate that the existing *Eucalyptus* trees in the NSW Site, even if some might die within the next 20 years, could not be replaced to conserve and enhance the natural habitat, especially for the Cormorant roost.

#### *Precautionary Approach*

136. A Member asked how the so-called “precautionary approach” was put to practice generally. Mr C.W. Tse, Deputy Director of Environmental Protection (1), explained that regarding the application of “precautionary approach” to ecological assessments in the EIA process, according to the Technical Memorandum on the EIA Process, avoidance of impacts was of the highest priority in the general policy for mitigating impacts on important habitats and wildlife. Generally speaking, AFCD would consider avoidance of any ecological impacts, before minimisation and lastly compensation. In the current application, he noted that AFCD had pointed out that the proposed Development Site encroached upon habitats of high ecological value.

137. The Meeting also noted that, according to TPB PG-No. 12C, the “precautionary approach” was adopted in view of the known intrinsic value of fish ponds in ecological terms, the complex response of birds to future landuse changes, and the carrying capacity of the area which had not been fully understood. The applicants should demonstrate to the Board that the requirement had been satisfactorily complied with by conducting relevant impact assessments such as an EIA, which would include an EcoIA.

138. A Member said that as the applicants had not satisfactorily addressed departmental concerns and the Site was located in an area of high conservation value, approving the application would set an undesirable precedent for similar applications in the ecologically sensitive area.

#### *PPP Approach*

139. A few Members considered that the Conservation and Management Plan submitted by the applicants was not satisfactory as no competent body had been identified for carrying out the conservation project. Besides, no detailed information had been provided to demonstrate if the funds to be deposited in the Environment and Conservation Fund were sufficient to cover the long-term management and maintenance costs.

140. A Member said that, referring to the successful cases in other countries, development and conservation might not be incompatible if there was a good proposal and a competent agent could be identified for long-term management. The applicants had not fully demonstrated that the current proposal could conserve and enhance the ecological value and functions of the wetland area.

141. Mr C.W. Tse explained that under the NNCP, the “PPP approach” might allow limited low-density private residential development at the ecologically less sensitive area in exchange for committed long-term conservation and management of the wetland area within the development site. That could help avoid the gradual degradation upon time due to various unmanaged activities and changes. However, the applicants would be required to provide adequate information and assessments to demonstrate that the “PPP approach” was feasible at the Site.

#### *Technical Assessments*

142. Some Members noted that the applicants had submitted an EcoIA to demonstrate that the proposed development would not result in negative disturbance impact or a net loss of wetland function. However, the EcoIA had yet to be accepted by AFCD.

143. A Member was also concerned that, whilst the development proposal fell within the scope of a “designated project” under the EIA Ordinance, no EIA under the EIA Ordinance had been conducted. The Board had therefore not been provided with adequate information on whether the proposed development at the Site was environmentally and ecologically acceptable. Mr Raymond K.W. Lee also said that the applicants had submitted in its application a number of technical assessments such as Environmental Assessment, EcoIA, Landscape Impact Assessment, Visual Impact Assessment and Traffic Impact Assessment (TIA). However, an EIA as required by the EIA Ordinance had not been submitted.

144. With respect to traffic impact, a Member said that there was insufficient information to demonstrate that the proposed development with a population of about 6,500 would not create adverse traffic impact on the existing road network in Yuen Long. As for the traffic arrangement for the visitor centre, it was noted that the Transport Department still had reservation on the proposal.

#### *Visual Impact and Building Height*

145. Some Members made the following points:

- (a) the proposed development with building heights (BHs) of 19-25 storeys, which were higher than the existing developments in the nearby areas, would unlikely be considered compatible with the surrounding environment. The BHs of the existing developments in Tin Shui Wai and Yuen Long as mentioned by the applicants’ representatives did not provide a relevant reference as they were far away from the Development Site; and
- (b) the current application was not comparable to the Fung Lok Wai (FLW) development, which was located adjacent to a knoll and the visual impact of the high-rise developments could be mitigated by the knoll serving as the backdrop. The current application, however, was under a different development context in that the surrounding areas were relatively flat.

146. In response to a Member’s query on whether the opportunity should be taken to impose BH restriction on the “OU(CDWEA1)” zone, the Chairman said that the imposition of



BH restriction on an OZP would normally be considered during the plan-making stage. Mr Raymond K.W. Lee added that as all development proposals within WCA would need to be submitted to the Board for consideration, the existing zoning in the OZP should be sufficient to ensure that no proposed developments would cause unacceptable visual impacts on the surrounding environment. A Member observed that BH restrictions were normally incorporated in areas with development potential. For WCA and WBA which should not be development-led, TPB PG-No. 12C had already provided stringent guidelines for the proposed development in order to avoid adverse impacts on the ecologically sensitive areas.

#### *Government Land*

147. A Member said that the plot ratio (PR) of the current application was comparable to that in the FLW development only if government land was included in PR calculation. Another Member was concerned that the viability of the proposal would rely on the use of extensive government land for the provision of ecological mitigation areas but there was no guarantee that the proposed land exchange would be approved.

148. Ms Karen P.Y. Chan, Deputy Director of Lands (General), noted that as the Site involved government land and private lots, land exchange would be required for the proposed development. If the planning application was approved by the Board, and the applicants subsequently made to the Lands Authority a land exchange proposal, Lands Department would consult relevant policy bureaux when considering such a proposal.

149. Mr Raymond K.W. Lee supplemented that both the NSW and LC Sites were included in the previously approved planning application No. A/DPA/YL-NSW/12 and were later designated as “OU(CDWEA1)” zone and “Site of Special Scientific Interest (1)” (“SSSI(1)”) zone on the NSW OZP and the Mai Po and Fairview Park OZP respectively. Against that background, it was stated in the OZPs that any development within the “OU(CDWEA1)” zone was required to be developed together with the conservation of the “SSSI(1)” zone in a comprehensive and integrated manner, and a layout plan covering the two zones would thus need to be submitted the Board for consideration.

[Professor K.C. Chau, Miss Winnie W.M. Ng and Mr Lincoln L.H. Huang left the meeting during the deliberation sessions.]

150. The Board decided to reject the application on review on the following grounds:

- “(a) the proposed development is not in line with the planning intention of the “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” zone (“OU(CDWEA)”) which is intended for conservation and enhancement of ecological value and functions of the existing fish ponds or wetland;
- (b) the proposed development is not in line with Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C). The “no-net-loss in wetland” principle has not been complied with. The Ecological Impact Assessment and the proposed mitigation measures are inadequate. The applicants have failed to demonstrate that the loss of ecological function can be adequately compensated by the proposed mitigation and habitat enhancement measures;
- (c) the applicants have not prepared an Environmental Impact Assessment (EIA) report as required by the EIA Ordinance to address the ecological issues, and yet the submitted technical assessments have failed to demonstrate that the proposed development would not generate adverse traffic, ecological and visual impacts on the surrounding areas;
- (d) the proposed development does not conform to “Private-Public Partnership Approach” in that the proposed development is not limited to the ecologically less sensitive portion of the Site and the applicants have failed to demonstrate how the long-term conservation and management of the Wetland Enhancement Area for the Nam Sang Wai Site and the Lut Chau Nature Reserve could be satisfactorily achieved; and
- (e) the approval of the application would set an undesirable precedent for similar applications within “OU(CDWEA)” zone, and its cumulative effect might have the undesirable effect of leading to the general degradation of the environment of the area.”

**Sai Kung and Islands District**

**Agenda Item 6**

[Open Meeting]

Draft Tai Ho Outline Zoning Plan No. S/I-TH/C - Further Consideration of a New Plan  
(TPB Paper No. 10253)

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[The item will be conducted in Cantonese.]

151. As there was insufficient time to consider the item, Members agreed to defer the consideration of the item to another meeting.

**Hong Kong District**

**Agenda Item 7**

[Open Meeting]

Request for Deferment of Review of Application No. A/H5/217-3

Proposed Class B Amendments to the Approved Master Layout Plan for a Proposed Hotel and Commercial Development, Inland Lot No. 8715 on Kennedy Road and Ship Street, Wanchai, Hong Kong

(TPB Paper No. 10254)

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[The item will be conducted in Cantonese.]

**Declaration of Interest**

152. The Secretary reported that the following Members had declared interests in the item for owning property in the area or having business dealings with the applicant, Hopewell Holdings Limited (Hopewell) and/or its consultant, Townland Consultants Limited (Townland):

Mr Stephen L.H. Liu - having current business dealings with Hopewell

- Professor S.C. Wong - having discussed with the applicant on the project
- Mr Patrick H.T. Lau - having current business dealings with Townland
- Mr Thomas O.S. Ho - having past business dealings with Townland
- Mr Stephen H.B. Yau - his office is located at Southorn Centre, Wanchai
- Mr David Y.T. Lui - co-owning with spouse a flat on Star Street, Wanchai
- Mr Wilson Y.W. Fung - being a Director of the Hong Kong Business Accountants Association which had obtained sponsorship from Hopewell before

153. Members noted that Mr Stephen L.H. Liu and Mr Thomas O.S. Ho had tendered apologies for being unable to attend the meeting, and Mr Patrick H.T. Lau and Mr Stephen H.B. Yau had left the meeting. As the interest of Professor S.C. Wong was considered direct, Members agreed that he could stay in the meeting but should refrain from participating in the discussion. As the item was a request for deferment, Members agreed that the other Members who had declared interests in the item should be allowed to stay in the meeting.

154. The Secretary briefed Members that on 9.2.2017, the applicant's representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer making a decision on the review application for another two months to allow more time for the applicant to resolve the outstanding issues. This was the third request for deferment of the review application.

155. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on

Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33) in that the applicant needed more time to address departmental comments, the deferment period was not indefinite, and the deferment would not affect the interests of other relevant parties.

156. After deliberation, the Board agreed to defer a decision on the review application, as requested by the applicant, pending the submission of further information (FI) by the applicant. The Board also agreed that the review application would be submitted to the Board for consideration within three months upon receipt of FI from the applicant. If the FI submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicant that the Board had allowed a further period of two months, resulting in a total of six months for preparation of submission of FI, and no further deferment would be granted unless under very special circumstances.

### **Procedural Matters**

#### **Agenda Item 8**

[Confidential Item] [Closed Meeting]

157. The item was recorded under confidential cover.

#### **Agenda Item 9**

[Open Meeting]

#### **Any Other Business**

[The item was conducted in Cantonese.]

158. There being no other business, the meeting was closed at 7:15 p.m.