

**Minutes of 1051st Meeting of the  
Town Planning Board held on 14.2.2014**

**Present**

Permanent Secretary for Development  
(Planning and Lands)

Mr Thomas Chow

Chairman

Mr Stanley Y.F. Wong

Vice-Chairman

Professor S.C. Wong

Mr Timothy K.W. Ma

Mr F.C. Chan

Professor Edwin H.W. Chan

Professor K.C. Chau

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Mr Roger K.H. Luk

Mr Stephen H.B. Yau

Dr W.K. Yau

Mr Lincoln L.H. Huang

Mr Rock C.N. Chen

Mr H.W. Cheung

Mr Sunny L.K. Ho

Mr Laurence L.J. Li

Professor Eddie C.M. Hui

Mr Dominic K.K. Lam

Mr Ivan C.S. Fu

Ms Janice W.M. Lai

Ms Christina M. Lee

Deputy Director of Environmental Protection  
Mr C.W. Tse

Director of Lands  
Ms Bernadette H.H. Linn

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

Assistant Director (2), Home Affairs Department  
Mr Eric K.S. Hui

Director of Planning  
Mr K.K. Ling

Deputy Director of Planning/District  
Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Mr Maurice W.M. Lee

Professor P.P. Ho

Mr H.F. Leung

Mr Patrick H.T. Lau

Dr Wilton W.T. Fok

Ms Bonnie J.Y. Chan

Ms Anita W.T. Ma

**In Attendance**

Assistant Director of Planning/Board

Ms Brenda K.Y. Au

Chief Town Planner/Town Planning Board

Ms Lily Y.M. Yam (a.m.)

Mr Louis K.H. Kau (p.m.)

Senior Town Planner/Town Planning Board

Mr Stephen K.S. Lee (a.m.)

Ms Johanna W.Y. Cheng (p.m.)

**Agenda Item 1**

[Open meeting]

**Confirmation of Minutes of the 1050th Meeting held on 24.1.2014**

[The meeting was conducted in Cantonese.]

1. The minutes of the 1050th meeting held on 24.1.2014 were confirmed without amendments.

**Agenda Item 2**

Matters Arising

[Closed meeting] [Confidential Item]

2. The discussion of this item was postponed to the afternoon session.

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

**Agenda Item 3**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-NSW/218

Proposed Comprehensive Development with Wetland Enhancement (including House, Flat, Wetland Enhancement Area, Nature Reserve, Visitors Centre, Social Welfare Facility, Shop and Services) with Filling of Land and Pond and Excavation of Land, Lot 1520 RP, 1534 and 1604 in D.D.123 and Adjoining Government Land, Nam Sang Wai and Lut Chau, Yuen Long (TPB Paper No. 9545)

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[The hearing was conducted in Cantonese and English.]

3. The Secretary reported that the application was submitted by Kleener Investment Ltd, Nam Sang Wai Development Co. Ltd., Community Wetland Park Foundation Ltd. and Lut Chau Nature Reserve Foundation Ltd. (the first two being subsidiaries of Henderson Land Development Co. Ltd. (Henderson)), with Masterplan Ltd. (Masterplan), AECOM Asia

Co. Ltd. (AECOM), Belt Collins International (HK) Ltd. (Belt Collins), LWK & Partners (HK) Ltd. (LWK), MVA Hong Kong Ltd. (MVA), Ove Arup & Partners Hong Kong Ltd. (Ove Arup) and the Hong Kong Alzheimer's Disease Association (HKADA) as the consultants of the applicants. The following Members had declared interests in this item:

- |                        |   |  |
|------------------------|---|--|
| Mr Ivan C.S. Fu        | - | having business dealings with Henderson, Masterplan, AECOM, Belt Collins, MVA and Ove Arup and being the Director and shareholder of LWK         |
| Ms Janice W.M. Lai     | - | having business dealings with Henderson and AECOM  |
| Mr Timothy K.W. Ma     | - | being ex-Member of the Executive Committee of HKADA  |
| Dr W.K. Yau            | - | being the Chief Executive Officer of Tai Po Environmental Associated Ltd. which had received donation from Henderson                             |
| Mr Patrick H.T. Lau    | - | having business dealings with Henderson, AECOM, MVA and Ove Arup   |
| Mr Dominic K.K. Lam    | - | having business dealings with Henderson, AECOM, MVA and Ove Arup   |
| Ms Julia M.K. Lau      | - | having business dealings with AECOM and MVA  |
| Mr Clarence W.C. Leung | - | being the Director of a non-government organisation (NGO) that had received a private donation from a family member of the Chairman of Henderson |

- Professor P.P. Ho - having business dealings with AECOM and being an employee of the Chinese University of Hong Kong (CUHK) which had received a donation from a family member of the Chairman of Henderson
- Professor S.C. Wong - being a traffic consultant of Ove Arup, the Director of the Institute of Transport Studies of which some activities of the Institute were sponsored by Ove Arup and an employee of the University of Hong Kong (HKU) which had received a donation from a family member of the Chairman of Henderson
- Mr Roger K.H. Luk - being a member of the Council of CUHK which had received a donation from a family member of the Chairman of Henderson
- Professor K.C. Chau - being an employee of CUHK which had received a donation from a family member of the Chairman of Henderson
- Dr Wilton W.T. Fok - being an employee of HKU which had received a donation from a family member of the Chairman of Henderson
- Mr H.F. Leung - being an employee of HKU which had received a donation from a family member of the Chairman of Henderson

4. Members considered that the interests of Mr Ivan C.S. Fu, Ms Janice W.M. Lai,

Mr Patrick H.T. Lau and Mr Dominic K.K. Lam were direct and agreed that they should withdraw from the meeting for this item. Members also considered that the interests of Dr W.K. Yau, Mr Clarence W.C. Leung, Mr Roger K.H. Luk, Professor K.C. Chau, Dr Wilton W.T. Fok, and Mr H.F. Leung were indirect and remote and that Mr Timothy K.W. Ma, Ms Julia M.K. Lau, Professor P.P. Ho and Professor S.C. Wong had no direct involvement in the subject application. The meeting agreed that these Members should be allowed to stay in the meeting. Members noted that Mr Fu, Ms Lai and Mr Lam had not yet arrived and Mr Lau, Professor Ho, Dr Fok and Mr Leung had tendered their apologies for not attending the meeting.

#### Presentation and Question Session

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

Ms Maggie M.Y. Chin	-	District Planning Officer/Fanling, Sheung Shui and Yuen Long East, PlanD (DPO/FS&YLE, PlanD)
Mr Ernest C.M. Fung	-	Senior Town Planner/Fanling, Sheung Shui and Yuen Long East, PlanD (STP/FS&YLE, PlanD)
Ms Kennie M.F. Liu	-	Town Planner/Fanling, Sheung Shui and Yuen Long East, PlanD (TP/FS&YLE, PlanD)
Dr Winnie P.W. Kwok	-	Senior Wetland & Fauna Conservation Officer, AFCD (SWFC/AFCD)
Ms Sunny W.S. Chow	-	Wetland & Fauna Conservation Officer (Wise Use), AFCD (WFC(WU)/AFCD)
Mr Adrian Fu	)	
Mr M.Y. Wan	)	
Mr Frankie Cheng	)	
Mr Paul Leader	)	
Dr Michael Leven	)	
Ms Siuman Hung	)	

Mr Alex Wu	)	
Mr Ian Brownlee	)	
Ms Kira Brownlee	)	Applicants' representatives
Dr David Dai	)	
Ms Carmen Ng	)	
Ms Nora Fung	)	
Ms Laura Yeung	)	
Mr C.W. Chung	)	
Ms Jessica K.Y. Ng	)	
Ms Esther Yeung	)	
Mr David Ketchum Demi Lo	)	
Ms Demi Lo	)	

6. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited the representatives of PlanD to brief Members on the background of the application.

7. With the aid of a Powerpoint presentation, Mr Ernest C.M. Fung made the following main points as detailed in the Paper:

The Application

- (a) on 19.10.2012, the applicants sought planning permission for a 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 and pond and excavation of land at the application site (the Site);
- (b) on 19.7.2013, the Rural and New Town Planning Committee (RNTPC) rejected the application for the following reasons:
  - (i) the proposed development was not in line with the planning intention of the “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” (“OU(CDWEA)”)

zone which was intended for conservation and enhancement of ecological value and functions of the existing fish ponds or wetland;

- (ii) the proposed development was not in line with Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12B) in that the “no-net-loss in wetland” and “minimum pond filling” principles were not complied with. There were inadequacies in the baseline habitat ecological information. The applicants had under-estimated the existing ecological values of the habitats and the net loss in wetland. The Ecological Impact Assessment and the proposed mitigation measures were also inadequate. The applicants had not provided sufficient information to demonstrate that the loss of ecological function could be adequately compensated by the proposed mitigation and habitat enhancement measures. The development footprint of 49 ha was excessive and the applicants had not taken a precautionary approach to minimise the pond filling requirement in the ecological sensitive area;
  
- (iii) the proposed development did not conform to the “Private-Public Partnership (PPP) Approach” in that the development was not limited to the ecologically less sensitive portions of the application site, and there was inadequate information to demonstrate how the long-term conservation and management of the Wetland Enhancement Area (WEA) in Nam Sang Wai and the Lut Chau Nature Reserve (LCNR) could be satisfactorily achieved;
  
- (iv) the submitted Environmental Assessment, Drainage Impact Assessment, Visual Impact Assessment and Landscape Master Plan were considered not acceptable. The applicants had not provided sufficient information to demonstrate that the proposed development would not generate adverse environmental, drainage, visual and landscape impacts on the surrounding areas; and

- (v) the approval of the application would set an undesirable precedent for similar applications within the “OU(CDWEA)” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area;
  
- (c) On 15.8.2013, the applicants applied for a review of the RNTPC’s decision. In November 2013 and January 2014, the applicants submitted further information (FI) with an amended development scheme to address RNTPC’s reasons for rejection and to justify the application. The revisions to the development scheme were summarised as follows:

Development Site in Nam Sang Wai (NSW)

- (i) the development site was reduced from 49.2 ha to 40 ha (9.2 ha previously shown as lake and reedbeds in the s.16 scheme) with the existing reedbed and wet grassland at the eastern part included in WEA in the form of reedbed. The proposed development would take up 24 ha of land with 16 ha of water channels between the houses;

NSW WEA

- (ii) according to the Review Statement, the previously proposed lake under the s.16 scheme at the eastern part of the NSW site would be included in the WEA. However, this proposed amendment was not shown on the revised Master Layout Plan (MLP) submitted by the applicants. The NSW WEA would be increased from 55.7 ha to 70.9 ha (+15.2 ha, +27.3%) by including the existing reedbed and wet grassland of 9.2 ha at the eastern part and the existing 6 ha of mangroves at the south-western part of the NSW site. The total area of continuous reedbeds at NSW WEA would be approximately 21.3 ha;

Wetland loss

- (iii) the “net-loss in wetland” under the Amended Scheme was 8.2 ha and was the same as that under the s.16 scheme. Based on the

information provided by the applicants, the wetland loss was calculated by the difference in areas of water surfaces before and after the development;

Lut Chau Nature Reserve (LCNR)

- (iv) to address the Director of Agriculture, Fisheries and Conservation's (DAFC) concerns on the fragmented nature of the previously proposed reedbed to be planted at Lut Chau (LC), some of the fish ponds in the south-western part of LC were consolidated as 7.8 ha of continuous reedbeds. However, this revision was not shown on the MLP under the Amended Scheme submitted by the applicants;
- (v) the applicants stated that as long as the functionality of the 40 ha of LC fish ponds would be increased by at least 25%, the loss of ecological function of 8.2 ha of wetland could be compensated by the proposals for LC alone. There was, however, no detailed information on how the compensation of ecological function was worked out;

Greywater Recycling

- (vi) greywater from the residential development was proposed to be used to maintain water level of the channels between houses in the NSW development site during dry seasons (might be once every 4 years as suggested by the applicants). To address the concerns of the Director of Environmental Protection (DEP) on the greywater, the applicants proposed that mechanical and chemical treatment of the greywater would be undertaken, rather than using the mechanical and reedbed treatment as originally proposed under the s.16 scheme;

Long Term Funding and Management

- (vii) taking into account the comments of DAFC on the cost involved in management and maintenance of LCNR and WEA in NSW, the applicants had revised the cost from \$2.8 million to \$3.7 million per annum and had proposed the following for the long-term sustainable

management of LCNR and WEA:

- the applicants had offered to fund and implement all of the works required to bring the Conservation Management Plan (CMP) for LCNR and WEA into effect;
- two Trusts viz. Community Wetland Park Foundation Limited and LCNR Foundation Limited, had already been established to manage LCNR and WEA;
- sufficient funding would be provided to a suitable Trust to ensure that the long-term management costs of LCNR and WEA were adequately covered and thus no public funding was required;
- funds would be provided to the statutory Environmental Conservation Fund (ECF) as an alternative;
- to proceed under whichever basis the Government considered appropriate;
- to retain ownership of the land the applicants owned within LCNR and WEA, if required. The land within LCNR and WEA would not form part of the future land grant for the residential development; and
- future ownership of the Government land (GL) would be subject to agreement and negotiation with the Lands Department (LandsD);

*Management of Public Park and Visitor Centre*

- (viii) the area alongside Shan Pui River was proposed as a public park, namely the “Parkway”. As both AFCD and the Leisure and Cultural Services Department (LCSD) confirmed that they would not take up the management and maintenance of the public park and the visitor centre, the applicants proposed that they would themselves carry out the improvements works, if permitted by the Government, and would be prepared to manage and maintain the area for public access. The visitor centre would be operated by a suitable social enterprise and completely separated from the management of the “Parkway” and WEA;

Noise Impact on Elderly Centre

- (ix) the slight exceedance of the traffic noise impact on the elderly centre could be mitigated through the orientation and design of the building. Non-sensitive rooms would be aligned directly facing Wang Lok Street such that the elderly centre would not be affected by traffic noise;

Urban Design Concern

- (x) to address the visual impact of the five 17-storey towers under the s.16 scheme, the applicants proposed to reduce the building height from 17 storeys (56.4 mPD) to a stepped profile ranging from 7 to 9 storeys (29.4 to 35.4 mPD), i.e. a reduction of 8 to 10 storeys (-21m to -27m) while the number of the apartment blocks would be increased from 5 to 10 blocks (+5 blocks, +100%);
- (xi) in preparing the Amended Scheme, two additional options maintaining the same domestic gross floor area (GFA), viz. Fung Lok Wai (FLW) Option and Tree Level Option, had been examined by the applicants. The FLW Option was based on using 5% of the site area for development which would result in 31 towers of 21 storeys while the Tree Level Option was based on using 13.64% of the site for 88 towers of 8 storeys at the existing tree height level. The Amended Scheme was a compromised option for development;

MLP

- (xii) to support the Amended Scheme for the s.17 review application, the applicants submitted a Review Statement and supporting FI. However, the revised MLP submitted by the applicants had not reflected the revisions proposed under the review application, including the consolidation of the fish ponds in the south-western part of LC to form one continuous reedbeds of 7.8 ha; and the mechanical and chemical treatment of the greywater instead of the mechanical and reedbed treatment originally proposed under the

s.16 scheme. With the discrepancies, the currently submitted MLP did not truly reflect the proposed revisions to the development scheme under the review application;

#### Departmental Comments

(d) the departmental comments were detailed in paragraph 5 of the Paper and were summarised as follows:

(i) the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD) pointed out that should the application be approved by the Board, the applicants were required to apply to LandsD for a land exchange. However, there was no guarantee that the land exchange would be approved;

(ii) DAFC did not support the review application from the ecological point of view and had the following comments:

##### “No-net-loss in wetland” principle

- to uphold the “no-net-loss in wetland” principle, it was important to establish the baseline ecological information accurately. Any potential ecological impact should be thoroughly assessed and adequately mitigated;

##### Inadequacy of the baseline habitat information

- the baseline habitat information to show the breakdown of the area of each wetland type within the 40 ha development site was still lacking in the Review Statement. Without the information, it was unclear how much existing reedbed/ponds/other wetlands would be lost due to the development in the Amended Scheme;

##### Underestimation of existing ecological values

- the comments on the underestimation of the ecological value

of the habitats in LC had not been addressed;

Misleading calculation of net loss in wetland

- the “net-loss in wetland” of 8.2 ha, in both the s.16 application and s.17 review application, only calculated the difference in area of “water surfaces” before and after development without considering the extensive development area and its ecological impact. In particular, omission of the pond bunds in the calculation of the existing wetland area would underestimate the area of wetland loss;
  
- even if the ecological function of the ponds could be increased by 25% through habitat enhancement and management measures as claimed by the applicants, it had yet to ascertain that the functional loss due to the development of 40 ha would be adequately compensated. It was also not sure if the calculation had taken into account secondary loss of fish ponds at NSW WEA and LCNR due to the proposed conversion of the existing fish ponds to reedbed, i.e. loss of fish ponds due to mitigation for reedbed;

Inadequacy of the Ecological Impact Assessment (EcoIA)

- the EcoIA submitted at the s.16 stage failed to reflect the direct impact of the development with an extensive development area of 40 ha in the Amended Scheme. The EcoIA was yet to assess the habitat loss and fragmentation impact on the existing continuous reedbed due to the proposed development area in the NSW site and the impact of the loss of fish ponds for the creation of 7.8 ha of continuous reedbed in the south-western part of the LC site;
  
- the applicants should clarify if the proposed increase of residential towers from 5 blocks to 10 blocks in the Amended Scheme would result in any increase in the loss of habitats

including wetland or non-wetland such as grassland and plantation. If so, details of the affected habitats in terms of their quality and quantity should be provided. There was also insufficient information on the potential indirect disturbance (especially light pollution impact due to the residential blocks) to the bent-winged fireflies that were reported in the mangrove within the site (mainly at the south-western part of the development site). The severity of impacts on the Eurasian Otter due to habitat loss and impediment of their movement corridor was also considered to be underestimated;

#### Inadequacy of proposed mitigation measures

##### *Retention of reedbed in WEA*

- the applicants had not clarified the area of existing reedbed that would be lost and the impacts on the ecological function. Hence, it was uncertain how the proposed mitigation measures (i.e., LCNR and WEA) might adequately mitigate any potential ecological impact. Besides, with the proposed residential development located in proximity to the retained reedbed, which would act as “a buffer between the proposed houses and the cormorant roost”, the applicants should clarify if there would be any potential disturbance impact on the reedbed due to the residential development during both the construction and operation phases, and whether this would reduce the ecological function of the retained reedbed;
  
- the inclusion of 9.2 ha of the existing reedbed and wet grassland into WEA would make up a total of 21.3 ha of reedbed at NSW. However, there was no elaboration on how the retained/replanted reedbed would be adequate to mitigate the potential impact of the proposed development on the existing reedbed habitat as both the potential ecological impacts on the existing reedbed and the ecological function of the retained/replanted reedbed in the Amended Scheme had

not been assessed;

#### Replanting of reedbed in WEA and LCNR

- the existing commercial fish ponds and the ponds on GL in the north-eastern part of the NSW site and LC site would be densely planted with reedbed. The proposed reedbed planting along the pond bunds would compromise the existing ecological function of the fish pond habitats. There would also be conflicts in the habitat design with the proposed management regime (e.g. pond drain-down);
  
- the planting of reedbed in LCNR would be consolidated in one continuous area of 7.8 ha in the south-western part of the LC site. The applicants should clarify if such planting would totally replace the previously proposed fragmented reedbed around the pond bunds in LC or would result in secondary loss of fish ponds. The applicants should also demonstrate how such mitigation measures might further enhance the ecological function of LCNR to mitigate the potential impact adequately;

#### Inclusion of existing mangrove in WEA

- it was unclear how the inclusion of the existing 6 ha mangroves in the south-western part of the NSW site in WEA would enhance the ecological value of WEA as a mitigation measure, as the mangroves would not be directly affected in the original development scheme anyway and would be separated from the other wetland habitats in WEA by the proposed development. The applicants might advise on any management works for the mangroves proposed to be included in WEA that would enhance the ecological function of the habitat, with a view to mitigating the ecological impacts of the development;

Not clear how the 16 ha of water channels could be retained

- the applicants argued that the 16 ha of water channels within the development area would not be filled. However, there was no information to show if the water channels would be created after the original wetland habitats (mainly reedbed) had been completely damaged, or how to “retain” the water channels on site while filling up the land required for building construction. In either case, it appeared that the wetlands within the 40 ha of development area would be disturbed and converted into other form of habitat/land use;

The “minimum pond filling” principle

- the applicants argued that the proposed 16 ha of water channels within the residential development site would not be counted as area of pond filling, but there was no information to demonstrate how the water channels would be “retained” during the construction of the houses. It was anticipated that the effect of the wetland loss during construction would be 40 ha from the ecological perspective and would include important wetland habitats of reedbed and fish ponds. Such development area would constitute some 33% of the NSW site and 22% of the whole site (compared to 5% for the approved FLW case);

Inconformity to the Private-Public Partnership approach

- although the proposed development would be located on the landward fringe of WCA and there were other ecological constraints, the development scale was not “limited” or “minimised” considering its extensive area encroaching upon a large continuous area of reedbed of high ecological value. The PPP principle under the New Nature Conservation Policy (NNCP) had not been observed;

Long-term management of LNCR and NSW WEA

- the applicants should provide a clear breakdown of the revised management cost of \$3.7 million for LCNR and NSW WEA that would accurately reflect the works proposed in the CMP. The applicants should also clarify if there would be any revision to the CMP submitted in February 2013 in view of the revisions proposed in the Amended Scheme, hence confirming whether such cost would be sufficient for the sustainable long-term management of the wetland mitigation areas in LCNR and NSW WEA;
- (iii) DEP did not support the review application and had the following comments:
- although the applicants had referred to the PPP arrangements under NNCP in this review application, since a substantive portion of the proposed residential site remained to be located in an ecologically sensitive area of the priority site, the PPP principle was not being followed in the planning and design of the project;
  - the applicants had not addressed DEP's previous concerns, in particular the following areas:
    - no information had been provided on what 'mechanical and chemical treatment' would be employed for treating the greywater, and its treatment standard, before the greywater was discharged into the water channels and reedbeds;
    - it had not been demonstrated how the reedbeds would function effectively and that the project would not cause adverse water quality impact; and
    - no information had been provided on the layout orientation and window type provision for the elderly centre to support that the elderly centre could meet the 55dB(A) traffic noise standard stipulated in the Hong

Kong Planning Standards and Guidelines (HKPSG);

- (iv) the Director of Drainage Services (D of DS) commented that an updated Drainage Impact Assessment (DIA) should be submitted, which should incorporate the proposed amendments into the development scheme. A more comprehensive DIA and Sewerage Impact Assessment (SIA) should also be submitted;
- (v) the Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) had strong reservation on the application from the landscape planning perspective and had the following comments:
- whilst various waterscapes were proposed around the houses, it would not entirely mitigate the loss of the existing natural landscapes in terms of function and quantity. There was still a wetland loss of approximately 8.2 ha and the principle of “no-net-loss in wetland” could not be achieved;
  - although the landscape assessment was prepared in accordance with the Technical Memorandum and EIAO Guidance Note No. 8/2010, it was still very generalised, inconsistent and vague and did not have adequate details in assessing the impact of the proposed development on the landscape in a logical manner;
  - the applicants should demonstrate how the 83.1% of site coverage of greenery could be achieved in the “Green Area and Open Water Area Distribution Diagram”. Most of the areas classified as “Greenery” were existing fish ponds which had not been entirely covered by existing vegetation and had limited accessibility. Further, according to PNAP APP-152, water features should be located in the pedestrian zone or uncovered communal podium roof, therefore those “Open

Water” areas among the proposed houses should not be counted as water feature;

- regarding the Landscape and Visual Impact Assessment of the Amended Scheme, the landscape resources should be specific and quantified. The landscape mitigation measures should also be specific. Assessment of the landscape impact for each landscape resource and landscape character area before and after the implementation of mitigation measures should be provided;
- considering the above, she had strong reservation on the application from the landscape planning perspective;
- on the urban design aspect, despite the proposed reduction in the NSW development site from 49.2 ha to 40 ha and the lowering of building height of the residential towers from 17 storeys to 7 to 9 storeys, the development layout and built form of the Amended Scheme were basically the same as those proposed in the s.16 application. There was still concern on the extent of the residential portion. The 960 3-storey houses occupying an extensive land area were considered not compatible with the surrounding context and would inevitably alter the visual character of the wetland environment;
- a large group of 21-storey towers under the FLW Option would not be desirable from visual perspective while that for the Tree Level Option, although more acceptable, there was still room for improvement;

(vi) the Director of Health (D of Health) had the following comments:

the applicants had proposed a different treatment method for greywater. However, D of Health did not set any water quality standard for greywater. The applicants should specify the water quality standards for greywater adopted for the development and the reasons or source of reference;

- (vii) the Director of Leisure and Cultural Services (DLCS) reiterated that he would not take up the management and maintenance of the proposed public park and visitor centre. The public park consisted of carriageway, pedestrian walkway, bicycle track and soft-landscape as dividers. Transport network including carriageway, pedestrian walkway and cycling network were under Transport Department (TD)'s purview. If AFCD did not agree to take up the public park as proposed by the applicants, TD/Highways Department (HyD) should be consulted if they would take up the management and maintenance of the proposed transport network. Subject to TD/HyD's agreement to take up road management and maintenance, he would consider the need to take up the horticultural maintenance for the road-side amenities;
  
- (viii) other Government departments had no further comment on the review application and maintained their previous views on the s.16 application;

#### Public comments

- (e) the review application and subsequent further information submitted by the applicants were published on 23.8.2013 and 29.11.2013 respectively. A total of 600 public comments were received, of which 598 were objecting and 2 were supporting comments. The objecting comments were received from a Legislative Council member, San Tin Rural Committee, Village Representatives (VRs) of Pok Wai Tsuen and Shan Pui Tsuen, 9 green groups (viz. Hong Kong Ecology Association, Hong Kong Wild Bird Conservation Concern Group, Kadoorie Farm & Botanic Garden Corporation, World Wide Fund for Nature (WWF), Conservancy

Association, Hong Kong Bird Watching Society, Designing Hong Kong Limited, Green Power, Green Sense) and private individuals. They considered that the wetland loss of 8.2 ha was under-estimated and the proposed measures to mitigate/compensate loss of wetland were improper and misleading. The provision of reedbed at the expense of existing active and abandoned fish ponds would not achieve “no-net-loss in wetland” principle and the increased size of WEA by including the existing reedbed and mangrove was arbitrary. There was no sound justification for converting the active fish ponds at LC into continuous reedbeds and the waterbirds roosting and foraging in NSW and the surrounding area would be affected. There was insufficient information on the long-term conservation and management of LCNR and NSW WEA. The cumulative impacts of developments in NSW would have a significant impact on the ecological integrity of the Deep Bay area. The supporting comments were received from the VR of Shan Pui Chung Hau Tsuen and one private individual. The main supporting reasons were that the proposed comprehensive development would provide sufficient infrastructures, increase job opportunity, revitalise the development potential of the area, and improve Shan Pui River;

#### PlanD's Views

- (f) PlanD did not support the application based on the assessments as detailed in paragraph 7 of the Paper, which were summarised as follows:

##### *Not in-Line with the Planning Intention*

- (i) the NSW site (68.2%) fell within an area zoned “OU(CDWEA1)” on the NSW OZP while the LC site (31.8%) fell within an area zoned “SSSI(1)” on the Mai Po and Fairview Park OZP. Both the “OU(CDWEA)” and “SSSI(1)” zones were intended to conserve the ecological value and functions of the existing fish ponds within the zones. Development proposals falling within the “OU(CDWEA)” area were subject to the “no-net-loss in wetland” principle. Any development within the “OU(CDWEA)” zone was required to be

developed in a comprehensive and integrated manner with the whole “SSSI(1)” site to ensure that such development would adhere to the “precautionary approach” and “no-net-loss in wetland” principle. The maximum GFA stipulated in the Notes for the “OU(CDWEA1)” of the OZP was to reflect the previously approved development and was subject to technical assessments to demonstrate their acceptability;

- (ii) although the applicants claimed that the development land would take up only 24 ha and 16 ha would be water channels within the development site, the proposed 960 houses would take up an extensive area and completely change the existing landscape character and habitats of the NSW site. The proposed development layout had not duly taken into account the objectives of conservation and enhancement of the ecological value and functions of the existing fish ponds or wetland. For the proposed LCNr, the applicants failed to demonstrate that the proposed ecological function would be enhanced by consolidating the existing fish ponds to form the 7.8 ha continuous reedbed and thus be compatible with the conservation objectives of the wetland in the Deep Bay area;

*Not in-Line with the TPB PG-No. 12B - Failed to Establish “No-net-loss in Wetland”*

- (iii) DAFC emphasised that the essence of the “no-net-loss in wetland” principle was to ensure that the development would result in no decline in wetland functions of the existing wetlands within the project site. DAFC considered that the baseline habitat information and survey methodology, including the required details of the breakdown of area of each wetland type within the 40 ha development site, in the EcoIA submitted by the applicants at the s.16 stage were inadequate and unacceptable or missing;
- (iv) DAFC could not accept the applicants’ approach of excluding the pond bunds in the calculation of wetland areas as the bunds had

wetland ecological function and such omission would underestimate the area of wetland loss. It was also not sure whether the secondary loss of fish ponds at NSW WEA and LCNR had been taken into account in the the proposed conversion of the existing fish ponds to reedbeds;

- (v) DAFC had doubts on the adequacy of the proposed mitigation measures of provision of 7.8 ha of reedbeds in LCNR and WEA to mitigate the potential ecological impact resulted from the proposed residential development;

*Not in-Line with TPB PG-No. 12B - Failed to Comply with 'Minimum Pond Filling'*

- (vi) DAFC considered that the wetland of the whole 40 ha of the proposed development area would in effect be lost despite that 16 ha of water channels would be provided within the development site in the Amended Scheme from the ecological perspective;
- (vii) the applicants had failed to demonstrate efforts in proposing limited low-density private residential/recreational development at the landward fringe of the Wetland Conservation Area (WCA) in accordance with TPB PG-No. 12B. The proposed development as shown on the development scheme under s.16 application had not taken a precautionary approach to minimise the pond filling requirement in this ecological sensitive area. A development site of 40 ha under the Amended Scheme was still considered excessive in WCA;
- (viii) compared to the FLW development which used only 5% of the application site for residential development at the landward fringe of WCA approved with conditions by RNTPC on 22.11.2013 , the current application with a similar plot ratio of about 0.17 taking up about 22% of the whole site (or 33% of the NSW site) in the ecologically sensitive area of fish pond and wetland could not

satisfy the minimum pond filling requirement;

*Inadequacy of the EcoIA*

- (ix) the existing reedbed in NSW was a rare and the largest continuous and contiguous reedbed of high ecological value in Hong Kong. The habitat loss as a result of the proposed development had yet to be assessed in EcoIA;
  
- (x) DAFC considered that there were inadequacies in the EcoIA relating to the baseline habitat, assessment of existing ecological values, calculation of net wetland loss and the proposed mitigation measures;

*The Alternative Options*

- (xi) to support the review application, the applicants had submitted two additional layout options, viz. FLW Option and Tree Level Option for 31 towers of 21 storeys and 88 towers of 8 storeys respectively. CTP/UD&L, PlanD considered that a large group of 21-storey towers under the FLW option would not be desirable from the visual perspective. As for the Tree Level Option, although more acceptable, there was still room for improvement;

*Not Conforming to the PPP Approach*

- (xii) under TPB PG-No. 12B, the Board might consider limited low-density private residential/recreation development within WCA under a PPP approach in exchange for committed long-term conservation and management of the remaining fish ponds within the development site. Both DEP and AFCD considered that the proposed residential site was located in an ecologically sensitive area of an identified priority site under NNCP. The principle for PPP had not been followed in the planning and design of the project and the applicants' proposal was not a "limited" development with conservation objectives in view of its extensive development site in an ecologically sensitive area;

- (xiii) both DEP and DAFC considered the applicants' funding arrangement for long-term conservation and management of LCNR and NSW WEA inadequate. Although the applicants had revised the annual recurrent cost for WEA and LCNR to \$3.7 million under the Amended Scheme, a clear breakdown of the revised management cost and revision to CMP had not been submitted;

Deficiencies in Technical Assessments

- (xiv) the applicants had not submitted any revised technical assessments, except a landscape and visual impact assessment, to support the Amended Scheme. DEP did not support the application noting there were a number of deficiencies in the Environmental Assessment (EA). D of DS also considered that a more comprehensive DIA and SIA should be submitted for his further consideration. CTP/UD&L, PlanD considered that the landscape assessment was still very generalized, inconsistent and vague and did not have adequate details in assessing the landscape impact of the proposed development in a logical manner. The Commissioner for Transport commented that if there was a change in the development scale, the applicants should submit further information regarding the traffic impact and revised parking and loading/unloading requirement. However, such information had not been provided. Besides, the applicants had not responded to the previous concerns of the Chief Highway Engineer/New Territories West, HyD (CHE/NTW, HyD) and D of DS on the proposed connecting bridge over Shan Pui River. The feasibility or detailed arrangement for the implementation and the subsequent management and maintenance of the proposed facilities including a visitor centre, a public park and an elderly centre had not been provided;

[Professor Edwin H.W. Chan arrived to join the meeting at this point.]

Undesirable Precedent

- (xv) there were a site zoned “OU(CDWEA2)” on the same OZP and two “OU(CDWEA)” zones on the Lau Fau Shan and Tsim Bei Tsui OZP and the San Tin OZP. For the current application, the applicants had failed to demonstrate that the proposed development at the application site was in line with the planning intention, complied with the “no-net-loss in wetland” and “minimum pond filling” principles, conformed to the PPP approach, and supported by relevant technical assessments to ascertain its acceptability. The approval of the application would set an undesirable precedent for similar applications in “OU(CDWEA2)” site and other sites under the “OU(CDWEA)” zone. The applicants had failed to demonstrate that the development would not cause adverse ecological, environmental, drainage, visual or landscape impacts on the surrounding areas. The approval of the application would set an undesirable precedent for similar applications. The cumulative effect of approving such applications would result in a general degradation of the environment of the area;

8. The Chairman then invited the applicants’ representatives to elaborate on the review application.

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

9. Mr Ian Brownlee gave a short introduction to explain the content of the document tabled at the meeting and the main areas that the applicants’ representatives would cover.

10. With the aid of a Powerpoint presentation, Mr Adrian Fu made the following main points:

- (a) there had been little change to NSW over the last 5 decades and the trees and the ponds were nearly the same as in the past;
- (b) the Fu’s family set up the NSW Development Co. in the 1960s with an

aspiration to build a village to remind the family of their roots of growing up in the rural Guangdong Province;

- (c) in 1965, the company's application to develop the southern portion of the land was approved by the then New Territories Administration (NT Administration). The low-rise development was split into three phases spreading over a land area of 15 ha, but, due to adverse political and economic conditions in Hong Kong in the late 1960's, the project was put on hold;
- (d) in mid 1970s, negotiation with the NT Administration was reactivated. The drastic changes in demographics and demand for housing at that time had rendered the scheme prepared in 1965 obsolete. With the decline of fish farming over the years, his family began to assemble a team of professionals to proceed with the development;
- (e) in 1986, the family sold 50% of its shares of the company to Henderson Land which, at that time, had the team and expertise to spearhead the development;
- (f) in 2011, the family offered to take over the project management role with a new proposed scheme to serve the public and benefit the local ecology. Their vision was to provide a low-rise village in tandem with protection and enhancement to the wetland in northern NSW and the nearby LC through financially viable means;
- (g) some of the revenues of the housing project would be used to support the other project components, such as the home for the elderly, the dormitory for intellectually disabled adults, the wetland visitor centre and wetland enhancements;
- (h) the enhancement would require significant funding and a long-term commitment. He had served 12 years as a trustee for WWF-Hong Kong from 1999 to 2011 and was instrumental in completing the Hoi Ha Marine

Centre project. His personal charitable foundation, Fu Tak Iam, was formed 6 years ago as a perpetual charitable trust. In the past 5 years, the endowment fund had become self-sustainable and had financed 119 NGOs at a total cost of \$220 million. It was known from experience how projects such as the NSW development could succeed;

- (i) the scheme submitted under the subject application was a new scheme. It was not an attempt to patch up the original scheme approved in 1994 but was conceived after 2 years of extensive research and fact finding. The scheme would meet the housing and social services needs of the Hong Kong people by creating a pleasant low-density living environment with conservation of 149 ha of land in perpetuity for the future generation of the Hong Kong people;

11. With the aid of a Powerpoint presentation, Mr M.Y. Wan made the following main points:

Background

- (a) the plan making stage for NSW and LC had been completed and it was now at the implementation stage. The application had been prepared for two to three years with an ultimate understanding of the zonings and guidelines for development in the area. It was disappointing that many of the comments received carried much skepticism of development, which would be more appropriate either at the Development Permission Area (DPA) stage or if and when one sought to propose zoning amendments in the area;
- (b) AFCD had confirmed that the “no-net-loss in wetland” principle was to ensure that development would result in no decline in wetland functions of the project site;
- (c) Deep Bay was a sanctuary of migrant birds and local waterfowl wading the mudflat. It was a huge brackish wetland resource with the mangroves growing in tidal water originally up to the location of the Pok

Oi Hospital. Progressive changes in land use in Deep Bay over the last 90 years had reduced the areas of mangroves for economic activities including fresh water fish ponds, open storage and industrial development etc. Most of the undeveloped areas were freshwater habitat bordering the Deep Bay brackish mudflat and mangroves. The Mai Po Nature Reserve (MPNR) was set up to become the most important buffer and support of the habitat at Inner Deep Bay fundamentally as a high tide roost;

- (d) fresh water fish ponds were either operating or idling. Operating fish ponds were rather polluted but were still considered to be of ecological significance when drained down with small fish left for the birds. Idle ponds were colonised by water plants, mainly reed. Long-term idling would result in the loss of wetland through sedimentation and vegetation succession. Hence, degradation was a common phenomenon;
- (e) there were building developments completed over the years including the Yuen Long Industrial Estate (YLIE), Fairview Park, Tin Shui Wai and Palm Springs. On the other side of the mudflat, the city of Shenzhen had been rapidly developed into a high-rise, high-density urban area. The migrant and local waterfowl still relied on the Inner Deep Bay and MPNR. The significance and importance of this ecologically important brackish wetland had not been diminished;
- (f) the Inner Deep Bay Area together with the buffer area were designated as a Ramsar Site under the Ramsar Convention. LC had long been a SSSI site before the statutory zoning came into being and was within the Ramsar site, but NSW was not;
- (g) the operating fish ponds at LC were rather polluted. The SSSI status of LC owed more to the peripheral mangroves and its link with MPNR than any specific fauna and flora in the ponds;
- (h) with LC transformed into a managed nature reserve, the size of MPNR

would be extended by a quarter forming a strong buffer for the Inner Deep Bay inter-tidal mudflat;

Planning permission

- (i) the former NSW proposal submitted under the DPA stage was the first attempt in Hong Kong's development history to integrate nature conservation with development and a dedicated nature reserve at LC to supplement the conservation capacity of MPNR and mitigate the impacts of development;
- (j) the planning permission was granted by the Town Planning Appeal Board (TPAB) in 1994 and finally ratified by the Privy Council at the end of 1996. The validity of the permission was being disputed currently;

Fishpond guidelines

- (k) following the Study on the Ecological Value of Fish Ponds in the Deep Bay Area, the Board had adopted a precautionary approach to maintain the integrity of the Deep Bay wetland ecosystem as a whole in consideration of development proposals in the Deep Bay Area;
- (l) the Board had also adopted the "no-net-loss in wetland" principle. Any development had to conform with the PPP approach in that limited development at the landward fringe of WCA was allowed in exchange for a long-term conservation and management of fish ponds within the development site;
- (m) development of this kind required "minimum pond filling" and should be located the furthest from Deep Bay;

Existing ecology

- (n) whilst there were 200 to 400 bird species found in MPNR, the number of bird species in LC and NSW were 82 and 130 respectively. The potential of LC for ecological upgrading was obvious with a common boundary with MPNR. With active managing nature reserves

established at LC and NSW, the ecology of the two nature reserves would have their bio-diversity brought to a level more compatible or comparable to that at MPNR;

“OU(CDWEA)” zoning

- (o) when the draft NSW OZP was published in 1994, the NSW site was zoned “Residential (Group C)” (“R(C)”), “Recreation” (“REC”) and “Conservation Area” (“CA”) with a quantum of development less than that permitted under the 1994 permission;
- (p) after the consideration of objections received in respect of the NSW OZP, the “OU(CDWEA)” zoning with the same development quantum as that of the 1994 permission and the mandatory inclusion of LC conservation management were adopted by the Board and approved by the Chief Executive in Council. In the process, the Board was advised by DAFC that the loss of wetland was inevitable and it was a matter of what measures could be practically implemented to address the loss;
- (q) LC was zoned “SSSI(1)” on the approved Mai Po and Fairview Park (MP&FP) OZP. The publication of the above-mentioned NSW and MP&FP OZPs was an important milestone for practical conservation management to honour Hong Kong’s obligation under the Ramsar Convention. Solutions for ecological conservation had been found. Implementation of the zonings of the OZP would realise the ecological potential of the zoned sites and bring long-term stability enshrined in the OZPs;

Private land holding

- (r) of the total planning area of 178.7 ha, private land occupied 55% or 98.3 ha. The proposed development site for housing, commercial and social services use was 49 ha in the s.16 stage and reduced to 40 ha in this review application to meet the concern of the green groups and the Government to conserve an area of reedbed. The rest of the private land area of 58.3 ha would be made available and integrated with GL for

conservation and public recreational uses;

Public engagement and transparency

- (s) since inception, there were meetings with green groups for exchange of views, a website had been set up for the public to read the details of the planning work and the views of local politicians and villagers were also sought. The process was transparent;

Wetland theme – minimum pond filling

- (t) the housing development adopted a wetland theme borrowed from the stilted housing form at Tai O. Instead of provision of private gardens for the houses by pond filling, 16 ha of water channels were provided within the 40 ha of development site. Although water between houses could not be of benefit to the target bird species, it could be a desirable habitat for smaller birds and dragonflies. Different styles of wetland formation and vegetation would nurture a viable and variable environment. The definition of wetlands under the Ramsar Convention were areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that was static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide did not exceed six metres;
- (u) the linear housing clusters were linked to the main spine road by bridges allowing the 16 ha of water channels and the lakes to be linked up into one single water body with the water circulating and treated using a pump system;
- (v) the narrowest channel would be 20 m wide. In the overall ecological function consideration, the area was classified as of low ecological value;
- (w) the treatment of grey water would be done in the estate treatment plant by mechanical, biological (aeration) means and with disinfection to international standard;

- (x) to fill up the estate wetland area would require 1 million cubic metre of fill. To mitigate this environmentally unpleasant process, no filling was a simple solution;

The heritage - Eucalyptus

- (y) eucalyptus were exotic trees. They were good roosting grounds for the migrant cormorants. However, most of the trees were nearing their botanical life expectancy. To conserve this heritage, the landscaping strategy was to plant eucalyptus wherever suitable, and replant the same species at where the existing tree died;

Comparison of the two schemes

- (z) as compared with the development scheme approved in 1994, the development site had been reduced from 98.3 ha to 40 ha, the total wetland enhancement area/nature reserve had increased from 41 ha to 127.7 ha and wetland loss was reduced from 85.3 ha to 8.2 ha;

Salient features of the Amended Scheme

Housing

- (aa) the housing development was positioned at the ecologically less sensitive area following the direction of the OZP. The residential component comprised a variety of unit sizes from small apartments to houses. Building heights varied from 3 storeys over basement for the houses and 7 to 9 storeys over basement for the apartment buildings comparable to that of the 6-storey factory buildings at YLIE;
- (bb) the small-sized apartments were compatible to those of HOS developments. If considered appropriate by the Government, a portion of these apartments would be allotted through the Private Sector Participation Scheme to be stipulated in the land exchange document;

LCNR

- (cc) being a natural extension of MPNR, LCNR would complete the most important buffer at the Inner Deep Bay mudflat for active conservation

management under the Ramsar Convention. The proposal included tree and bamboo plantation in the middle so that an egrettry would be established in the matured vegetation supplementing the two existing egrettries at Mai Po and Tung Shing Lei;

NSW WEA

- (dd) the proposed community wetland park would be complimentary to the conservation function of the WEA. There would also be a small overnight stay hostel for bird watchers. According to a survey done by the applicants in 2012, environmental education and bird watching facilities were the most preferred facilities of the proposed community wetland park, and the facilities would be extended to the underprivileged families and groups;

Trust funds

- (ee) as WEA and the nature reserve were geographically separated with slightly different emphasis on conservation and recreation, they might be managed by two different NGOs in accordance with the PPP Approach. Two separate funds would be set up to finance long-term conservation management. If one NGO took up the management of WEA and the nature reserve, the two trust funds would be combined. Alternatively, if considered more appropriate by the Government, adequate funds would be deposited with the statutory ECF to cover the long-term management and maintenance costs;

The Parkway

- (ff) the parkway was an informal but safe and comfortable ground for the public to enjoy. The landscaping design would provide more opportunities for photography. The parkway would be included in the management of the community wetland park at NSW WEA;

The road bridge and public access

- (gg) a road bridge was proposed at an ecologically insignificant location at Shan Pui River to link the development via YLIE to the Long Ping West

Rail Station. The bridge would be designed to Highways Department standard and intended for use as a public road. A cycle track would be incorporated into the bridge to obviate the building of another bridge by government for cyclists. The bridge supports were outside the flood channel and would have no adverse impact on storm drainage;

- (hh) with the implementation of the scheme, convenience of public access would be enhanced via the road bridge. Public transport in the form of green minibus linking the community wetland park with the West Rail Station would reduce the usage of private cars;

*The social service building*

- (ii) the comprehensive planning based on a sustainable development model adopted in the application sought to include two kinds of social services to meet the need of the ageing demography. Preliminary agreement had been reached for two charities to share the use of the 6-storey social service building with 4 storeys to serve the demented elderly, their caregivers and doctors, and the two storeys above for dormitory for the intellectually disabled adults. Both services were in strong demand in the community with supply lagging behind;

*Implementation*

- (jj) if planning permission was given by the Board, the statutory process of EIA under the EIAO would continue, followed by lease modification or in-situ land exchange. At the EIA process, there would be another opportunity for the general public to participate. Public engagement would continue and input from the community and the green groups would be properly considered. All planning and environmental conditions imposed might also be written into the in-situ land exchange agreement. The applicants also intended to commence the conservation work when the Environmental Permit (EP) was issued;

12. With the aid of a Powerpoint presentation, Dr David Dai made the following main points:

- (a) the Hong Kong Alzheimer's Disease Association (ADA) was a non-profit making organisation. It had been established for 18 years to provide day care services and training for demented elderly;
- (b) dementia had become a common disease among the aged and a global health challenge. The soaring needs of people with dementia would become a demographic epidemic if the society was not prepared ahead. The World Health Organisation advised that there would be a new case in every 4 seconds;
- (c) due to technological advancement with good medical facilities, the Hong Kong people were aging. In Hong Kong, the prevalence of dementia in people aged 60 years or above was 100,000. There would be 1 quarter of the population over the age of 65 in 2020. Statistics showed that 10% and 32% of people over the age of 75 and 85 respectively would suffer from dementia;
- (d) by 2030, people over 75 and 85 would grow rapidly. In the years to come, a family might have to take care of 1 to 2 demented elderly people. Hong Kong had to get prepared for the rising demand for services for elderly people with dementia;
- (e) ADA provided a range of services and activities to help people with dementia and their families. Therapeutic treatments were provided through various social, sports, cognitive and musical activities and hobbies;
- (f) the proposed social service building under the application would provide residential care services for 150 to 400 elderly people with dementia, day care services for 40 elderly, a wellness and brain health centre and an Institute of Alzheimer's Education providing training to caregivers, doctors and related professionals. All these services required a premises before they could be provided;

13. With the aid of a Powerpoint presentation, Ms Nora Fung and Ms Laura Yeung made the following main points:

- (a) the Intellectually Disabled Education and Advocacy League was a self-help organisation of parents having children with intellectual disabilities. It was founded in 1989 and registered as a charitable organisation in 1991. Training work of the organisation was provided in the Hong Kong Polytechnic University in the early years before a unit was allocated to them at Nam Shan Estate in 1995;
- (b) the mission of the organisation was to help people with intellectual disability (PWID) to develop skills for independent living, to promote mutual assistance and support of families with PWID, to promote the awareness of the community on the need of the intellectually disabled people, and to advocate the rights and welfare of PWID. The vision of the organisation was to have an inclusive society with good quality of life for PWID and their families;
- (c) there were 87,000 PWID in Hong Kong in 2008 and 7,863 PWID were on waiting list for residential services. Since PWID would begin to have aging phenomenon at about 40 years of age, with PWID and their parents both aging, it would give rise to a “double aging” issue. The need to provide residential care services to this group of people as well as supporting services to the caregivers was imminent;
- (d) the proposed site in NSW under application would help the organisation achieve their mission, vision and dream. Within the proposed social service building, a centre with residential care for children with intellectual disability and areas for day-time activities and training services would be provided. The provision of residential services within the proposed development would help shorten the waiting time for such services. The other services and facilities such as respite care, care for caregivers and family room for parents’ visits would also be made

available. A farm for educational purposes would also be provided on the roof of the building;

[Mr Rock C.N. Chen left the meeting at this point]

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

Zoning history

- (a) in 1999, the application site was rezoned to “OU(CDWEA)” on the OZP. PlanD noted that if the approved scheme in 1994 was to proceed, it would not meet the new planning intention in TPB PG-No. 12B in two aspects. Firstly, the development would replace all the fish ponds in NSW by mostly terrestrial habitats. Secondly, the disposition and layout of the residential units and golf course were not limited to the landward fringe of the site and it was all the way to the north. PlanD considered that there were merits to rezone the site to improve the development to take full account of the principles set out in TPB PG-No. 12B;
- (b) the comments in paragraph 4(d) of TPB Paper 5514 by DAFC pointed out that the rezoning was an improved proposal from the wetland conservation point of view and had no objection to providing an incentive to the objectors to redesign the scheme to address the “no-net-loss” issue;
- (c) the Board at the end of the rezoning process had clearly indicated their intention by specifically including the amount of GFA to be permitted in the NSW site and for it to be located on the landward side. It was included to encourage the objectors to devise a new scheme to fully comply with the guidelines as what had been done in the subject application. The process of plan making had been completed and it was not right to go back to challenge the statutory context;
- (d) many of the public and the green groups were not aware of this statutory context and their comments were fundamentally objecting to the context

of the OZPs which had been settled. The plan making process had been concluded and the encouragement envisaged at that time to implement the scheme had not been forthcoming from the Government departments, and it appeared that the Government was attempting to revisit the plan-making process and prevent any development or long term conservation on the site;

Statutory planning context

- (e) the applicants were proceeding to implement the zoning in accordance with the requirements noting that the development was only permitted if the conservation component was properly in place. All the statutory and other requirements had been complied with. This was a unique situation with two different OZPs on each side of the river, two different sites with two different zonings. However, the two sites were linked by statutory requirements. The Notes of the zones would be studied to find out as to what was actually required under the statutory planning situation;

Lut Chau

- (f) the planning intention of LC, which was zoned “SSSI(1) on the OZP, was to conserve the ecological value and function of the existing fish ponds and to deter development (other than those which are necessary to sustain or enhance the ecological value of the fish ponds within the zone or to serve educational or research purposes) within the zone. The planning intention was thus for enhancement of the ecological value. It was “value”, “function” and not “area”;
- (g) the Explanatory Statement (ES) for LC was also rather unusual and it said that a nature reserve, which would perform ecological functions similar to or better than the existing fish ponds, was an alternative ecologically beneficial use to the existing fish ponds. So, it was the other uses that were actually looked at in the application to provide ecological benefits to improve functions. The whole of the process was primarily to facilitate the proposed residential development at NSW and the proposed LCNR had to be part of the same development proposal, which was what had

been put forward in the application;

Nam Sang Wai

- (h) the planning intention of NSW, which was zoned “OU(CDWEA)” on the OZP, 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. Low-density private residential or passive recreational development within this zone in exchange for committed long-term conservation and management of the remaining fish ponds or wetland within the development site might be permitted subject to the “no-net-loss in wetland” principle and planning permission from the Board. Any new building should be located farthest away from Deep Bay. This was the statutory requirement as to where the development had to be located;
- (i) paragraph 9.7.2 of the ES of the OZP stated that any new development should be located to the southernmost portion of the zone. It was where the location of the development had to be. As for compensation for any loss of wetland, it was ecological function, and not area, that was required to be compensated for loss arising from development involving pond filling;
- (j) what the applicants had done was primarily to facilitate the proposed residential development at NSW with a nature reserve at Lut Chau in line with the decision to approve the previous scheme and what was stated in the ES;

TPB PG-No. 12B

- (k) TPB PG-No. 12B also provided some significant principles, namely the “precautionary approach” and the “no-net-loss in wetland” to be applied when considering the form, content and justification for the development;
- (l) the precautionary approach had been addressed in detail in the submissions of the application. It was adopted in 1999 when the

guidelines were prepared and when the complex response of birds to future land use changes and carrying capacity had not been fully understood. Since then experience had been gained in Hong Kong in implementing wetland conservation projects. The precautionary approach applied to the current situation and the evidence submitted meant that doing nothing was a greater risk than implementing the long term conservation plan as risk arose from unmanaged ponds, dying eucalyptus trees, land and vegetation deteriorating, fires, dumping of waste materials, human disturbance, dogs and even commercial fish farming;

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

*No-net-loss in wetland*

- (m) the no-net-loss in function was fundamental to the whole of the application and there was different opinion between AFCD and PlanD as to what no-net-loss should be. It was stated in paragraph 5 of TPB PG-No. 12B that no decline in wetland or ecological functions served by the existing fishponds, especially as a source to provide abundant and accessible food and roosting grounds to ardeids and other species, should occur. It was related to specific birds, food and roosting grounds. It was also stated that alternative uses could be considered suitable only if it could be demonstrated that they would not result in the loss of ecological function of the original ponds. The last thing mentioned in the paragraph was very important in that the alternative wetland habitat to replace the fish ponds should provide food supplies in a sustainable manner so that birds, particularly the egret and heron population, were not put at risk. That was the specific thing that the applicants had to do in relation to no-net-loss in wetland functions to make sure that there was enough food and lodging for the birds;
  
- (n) many comments said that not enough information had been provided. However, such information had been provided in the tables of the submission as to what the existing ecological situation was and there were

tables on how the impacts would be mitigated;

### Options

- (o) in the s.17 submissions, three additional options were put up for consideration, of which the Amended Scheme was proposed for implementation;
- (p) the FLW option was one with a development site of 5% (31 towers of 21 storeys), which was of the same approach as the one approved at FLW. As noted from the photomontages of the visual impact assessment (VIA), this option would be the most massive development in the flood plain in Yuen Long. FLW was near Tin Shui Wai which had a similar form of residential development and was visually shielded by a hill to the south of the site. CTP/UD&L, PlanD agreed that this form of development was not very suitable for the application site;
- (q) the Tree Top option was better concealed by the existing large trees around the site. Taking the same amount of development and putting it into towers of similar heights to the tree tops, a development option of 88 towers of 8-storey high was resulted. Under this option, the built form had to be changed, the number of flats was doubled and more open space and basement car park would be required. As a result, the development site was not significantly reduced. As noted from the photomontages of VIA of this option, the visual impact as seen from the Shan Pui River was much better than the FLW option. However, the option would be the most extensive and largest development on the flood plain;

### The Amended Scheme

- (r) under the Amended Scheme, the proposed lake in the s.16 stage had been taken out and the reedbed was kept and enhanced. The mangrove on the western side of the development site was transferred to WEA for permanent conservation and management, resulting in an increase in the area of WEA and a reduction in size of the residential site. The same form of residential development of 3-storey houses as in the scheme for

the s.16 application was kept as the 3-storey houses were a compatible form of development along the Yuen Long plain up to the Fairview Park. As for the residential towers, their building heights had been reduced with a profile variation from 8 to 10 storeys to meet the visual impact requirement;

- (s) it was shown on the photomontages of VIA that the Amended Scheme was completely shielded when viewed from the river. As compared with the s.16 scheme, the FLW and Tree Top options, the Amended Scheme was the best in terms of urban design and impact on wetland;

15. With the aid of a Powerpoint presentation, Dr Michael Leven made the following main points:

*Ecological value of habitats*

- (a) ecological surveys, which met the requirements of the study brief prepared under the EIAO, were carried out over a period of 15 months. A total of 133 survey visits to different fauna groups had been made for detailed assessment of the baseline habitat. A substantial portion of NSW and LC was occupied by active fish ponds. The next most abundant habitat was reedbeds, both permanently wet reedbeds in the south-eastern part and seasonally wet reedbeds in the northern and western parts of NSW. A significant amount of mangroves was found at LC;
- (b) the permanently wet reedbed in NSW and the eucalyptus plantation were of high ecological significance with the eucalyptus plantation serving as a cormorant roost. Other habitats were not so valuable. The open water in abandoned fish ponds was considered to be of moderate to high ecological value and the active fish ponds were assessed as of moderate value because these ponds had relatively limited faunal diversity and very high level of human disturbance. These ponds were also experiencing problems of degradation and dumping. The importance of habitats were determined according to their quality and whether species of conservation

importance were using them, such as egrets and herons;

- (c) species of birds of conservation significance also included reedbed birds and great cormorants. As regards the Eurasian Otter, over a year of 24 hours camera trap operating, there was no record of such mammal. It was noted that bent-winged fireflies, species of reptiles, dragonflies and butterfly were using the habitats. The project was to ensure that adverse impacts on these species, habitats, food supplies and shelter were avoided or compensated;

“No-net-loss in wetland” and “Minimization of pond filling” principles

- (d) there was no presumption against change in the type of wetland so long as the “no-net-loss in wetland” criteria were met. There had been a suggestion that fish ponds should always be kept as fish ponds and reedbeds should be kept as reedbeds but it was not what the “no-net-loss in wetland” principle meant;
- (e) pond filling would be minimised and compensated by enhancing wetland functions such that the “no-net-loss in wetland” principle was followed;

Development location

- (f) residential development must satisfy three key requirements. It must satisfy the “no-net-loss in wetland” and “minimisation of pond filling” principles and be placed in an area furthest away from Deep Bay. All non-mitigatable impacts on habitats and species of conservation significance were to be avoided. All these factors had been considered in determining the location of the development under the application;

Ecological constraints

- (g) ecological constraints were identified in a holistic fashion. NSW and LC were considered as an ecological unit and their close ecological linkages with the other parts of Deep Bay wetland system in particular MPNR, the main drainage channels and the inter-tidal mudflats were considered;

- (h) an egret was found to the south of Tung Shing Lei and egrets would fly over the site at NSW where the development was proposed to the Deep Bay Area to the north. As such, part of the NSW site was within the flight-lines of the egrets. Cormorant roosts were scattered on the north-western and south-eastern parts of the NSW site and a buffer area of 150 m in radius from the cormorant roost was set to avoid human disturbance;
- (i) the main drainage channel was extensively used by a large number of water birds. Development at the main channel should be avoided. There were mangroves in the southwest of NSW, along the sides of the drainage channel and at LC;
- (j) putting the constraints together, the development had to be at the current proposed development site as it was the furthest away from MPNR and the inter-tidal mudflats. It minimised the disturbance and impacts on the water birds which used the main channel and was away from the cormorant roosts. There were still some potential flight-line impacts in the eastern part of the residential development but egrets would readily fly over 3-storey developments. If there was any concern with regard to the Eurasia Otter movement corridors in NSW, the birds would unlikely use this south-western part of the site, which was close to YLIE;

*Current ecological conditions of the development site*

- (k) there were permanent wet reedbeds in the south and southeast and seasonally wet reedbeds in the north and west of the development site. The 13 ha of permanently wet reedbeds were high ecological value habitats whilst the ecological value of the seasonally wet reedbeds was only low to moderate because of the limited faunal use and invasion by terrestrial vegetation. It was incorrect to say that the development footprint was located at a large continuous area of high quality habitat. The plantation area which was impacted in the west of NSW was indeed not a high value habitat because that part of the plantation was not used

by cormorants;

Phasing plan

- (l) to mitigate the impact of the 13 ha of high value permanently wet reedbeds, the development would be phased in such a way so that the construction phase impacts on the habitats would be avoided. In Phase 1, habitats on the private land in NSW and LC would be created and enhanced. The works would be carried out as soon as the EP was issued to compensate in area and function for the existing reedbeds within the development footprint;
- (m) Phase 2 would extend the enhancement process to GL once the land exchange was finalised;
- (n) construction in Phases 3 to 5 for the residential development would only commence when the mitigation areas were established and at least two years would be allowed for establishment of the mitigation areas. There would be no loss in ecological function as compared to that of the baseline during the duration of the project;
- (o) on completion of the project, habitat conditions would be changed. A large area of reedbed would be at NSW. There would be relatively smaller areas of open water and non-wetland habitat, such as grassland. The loss in open water would be compensated by increasing the wetland function of the remaining open water;

Active management

- (p) active management was hands-on management with daily management activities that would benefit wildlife. The management measures included pond drain-down to make fish accessible to water birds, stocking and managing ponds to ensure that fishes were the optimum size for birds to eat, protection of the habitats and species from accidental and deliberate disturbance by people and dog, provision of specific measures, such as nest boxes, nesting/roosting rafts and otter holts for certain

species of birds and intensive monitoring and adoption of a long-term adaptive management to handle changes in circumstances;

16. With the aid of a Powerpoint presentation, Mr Ian Brownlee concluded the presentation by making the following main points:

- (a) the points raised in paragraph 7 of the TPB Paper were rather inaccurate and repetitive. The responses to these points were as follows:

*The Amended scheme – Paragraph 7.2*

- (b) there was a comment stating that the applicants had failed to demonstrate how the existing reedbeds and mangroves would be enhanced. Without management, mangroves and reedbeds would progressively deteriorate and become dry land. The way to avoid this situation had been explained in paragraphs 1.8.10 and 1.8.27 in the CMP for mangroves and reedbeds respectively. By retaining 9.2 ha of additional reedbed instead of the previously proposed lake, a significant enhancement had been introduced. The enhancement concern had actually been covered in the application;

*Not in line with planning intention – Paragraphs 7.3 to 7.4*

- (c) both sites in NSW and LC must be considered together as a single scheme. Under this approach, it was inevitable that there would be significant changes to the character of these areas and it should be accepted as a fundamental part of implementation;
- (d) in paragraph 7.4 of the TPB Paper, there was a criticism that the proposed development layout did not take into account the conservation objectives. To respect the general wetland conservation objectives for the whole site, 16 ha of water had been included within the development site. Instead of filling these channels, wetland was being created;
- (e) even if these 16 ha of water channels were not included, much improvement over the whole area for target species had been introduced

by means of the proposed development. Although the 16 ha of water channels were not significant in meeting the ecological functions, it did help add water to the site. The comment relating to LCNR had not taken into account the other features of the Nature Reserve proposal apart from the reedbeds resulting in an underestimation of the proposal. The consolidation of the reedbeds was provided at AFCD's request. Overall, the increase in the area of "High to Moderate" and "High" ecological value wetland was from 47.5ha to 104.3ha. The massive increase in function was able to accommodate the change in the 40 ha development site. The planning intention had been complied with;

Not in Line with TPB PG-No. 12B

Failed to establish "no-net-loss in wetland" – Paragraphs 7.5 to 7.8

- (f) the wetland function as stated in TPB PG-No. 12B referred to specific species. These had been considered in the ecological survey. With all the additional information collected from the surveys during the process, it was not understood why DAFC still considered the habitat information inadequate;
- (g) AFCD had tried to convince that bunds were water and in fact they were not. In some circumstances bunds did have an ecological function. However, when they were highly devastated, they had very little or no ecological value. The secondary loss of fish ponds to reedbeds had been taken into account in the calculation of existing wetland area;
- (h) DAFC had requested clarification on the baseline information of potential disturbance to the reedbed, bentwing fireflies, Eurasian Otter, cormorant roosts and on the details of the mitigation measures. Details regarding these aspects had been provided;
- (i) the CMP enhancement proposals would enable the site to provide adequate food and roosts to maintain the populations of target species. The "no-net-loss in wetland function" principle had therefore been achieved;

Not in line with TPB PG-No. 12B

Failed to comply with “Minimum Pond Filling” – Paragraphs 7.9 to 7.11

- (j) there was a comment that there was no information as to how the water channels were to be created and managed. The information had been included in the application and was summarised in Mr M.Y. Wan’s presentation. The cumulative impacts had been assessed in EcoIA;
- (k) it was fundamental to the intention of the zoning that some disturbance to the existing site conditions would take place. The detailed management and mitigation measures had been included in the submissions. While it was commented that the applicants had failed to demonstrate that the development of the residential component had not been located in the landward fringe of the WCA according to TPB PG-No. 12B, it could be seen from the submitted drawings that the development site was in the southernmost portion and the landward side of the site;
- (l) the number of abandoned ponds within the 40 ha development site was minimal and therefore effect on ponds had been minimised. Besides, 16 ha of water channels would be created within the site;
- (m) an unfair comparison had been made with FLW. It had been explained why the FLW approach was not appropriate. Also, the comparison of 22% for the site was incorrect as it was 13%. The characteristics of the site were different from those of FLW so the comparison was incomplete and irrelevant. Each application should be considered on its own merits;
- (n) AFCD and PlanD had never advised where the alternative site with less ecological impact was located. The location of the application site had complied with the planning requirements;

Inadequacy of the EcoIA – Paragraphs 7.12 to 7.13

- (o) although an enormous amount of information had been submitted, Government departments still advised that the baseline information was

inadequate. It was not understood as to what extent and how specifically inadequate the EcoIA was. Even if the EcoIA was inadequate to a minor extent, it could be reconsidered both in the consideration of the approval conditions to be imposed and in the EIA process for obtaining the EP;

Alternative options – Paragraph 7.14

- (p) the building height versus the development footprint was the dilemma faced in preparing the application. Nine options had been prepared with six for the s.16 stage and 3 for this review application;
  
- (q) the 21-storey towers of the FLW approach was considered not desirable by CTP/UD&L, PlanD. It was stated in the departmental comments that there were still other options with different building heights and forms to be explored. Apart from urban design consideration, the “precautionary approach” and “no-net-loss in wetland” were the other two aspects that had to be considered in devising the development scheme. It was not known what options or on what basis the options should be designed. Since the visual impact and no-net-loss in wetland function had been met, it was considered that the application could be approved;

Not conforming to the PPP approach – Paragraphs 7.15 to 7.16

- (r) the requirements in the OZP had been followed, especially on the limited amount of development, its location and the CMP requirements;
  
- (s) both DEP and DAFC considered that the applicants had failed to demonstrate the funding arrangement for long-term conservation management of the wetland. However, the estimate had been proposed in accordance with the Government requirements. The funding arrangement would be implemented before execution of the land exchange and had been embodied in the proposed approval conditions (s) and (t) of the TPB paper. The requirements were very specific and there was no indication as to how the Government requirements had not been met;

Deficiencies in the Technical Assessments – Paragraphs 7.17 to 7.20

- (t) all of the deficiencies were minor and could be met by revisions through the normal process. No one had objected to this application on the basis of the technical submissions other than AFCD. The general intention, principles and major approaches had been satisfied at this stage and the details would follow;
- (u) proposals for future implementation, management and maintenance of facilities including a visitor centre, a public park and an elderly centre in the development proposal had been detailed in the submissions. Organisations to manage the facilities had also been identified. It was not understood why there was still a comment that the subsequent management and maintenance of the proposed facilities were yet to be determined;

Undesirable Precedent – Paragraphs 7.21 to 7.22

- (v) precedent had to be set out in relation to exactly comparable situations. This was a unique application site, which was different from the adjacent site in San Tin. The planning intention and the ES were not the same;
- (w) with respect to the comment on the extensive and irreversible loss of wetland which would lead to permanent loss of habitat for wildlife, it had been shown that there would be 127.7 ha of permanently conserved wetland, not an irreversible loss of habitat for wildlife nor degradation;
- (x) there would not be cumulative effect resulting in degradation of the environment of the area. It would result in conservation in accordance with TPB PG-No. 12B and all the planning principles included in the OZP;

PlanD's Views

- (y) the reasons for rejection were exactly the same as those for the s.16 except for one change in reason (b) with the figure from 49 ha changed to 40 ha due to a change in the area of the development site. If the reasons were

adopted to reject the application, they would provide no indication to the applicants as to how they could come up with a conforming scheme which would address the concerns;

- (z) there was no adequate reason to reject the application, but an approval subject to the 20 conditions proposed would provide a controlled basis for taking the implementation of the zoning forward;
- (aa) the application was a complex case on a very large site. A lot of information had been submitted to a level of details considered suitable for the approval of similar developments. The more detailed requirements under the conditions could be dealt with to the satisfaction of the relevant departments in due course;
- (bb) in 1999 when setting the statutory framework for this conservation PPP project, the Board envisaged a scheme similar to this instead of the approved golf course scheme. It was therefore time to approve the application subject to the reasonable conditions and allow active conservation to be implemented, and to provide a large quantity of housing, the facilities for the elderly, and a park for the general public.

17. As the presentation from the applicants' representatives had been completed, the Chairman invited questions from Members.

18. A Member noted that an extract of the TPB Paper No. 5514 had been included in the applicants' submission tabled at the meeting and asked about the relevancy of the Paper to the current review application. Ms Maggie M.Y. Chin advised that the Paper was related to the further consideration of objections to the draft NSW OZP No. S/YL-NSW/1 on 10.12.1999. It was after the further consideration of the objections to the OZP that the Board had decided to rezone the NSW site under application to "OU(CDWEA)" zone with the incorporation of a maximum GFA restriction, which was in line with that of a proposed development scheme approved by the Town Planning Appeal Board in 1994.

The "no-net-loss in wetland" principle

19. The Vice Chairman said that the main concern in the review application was on conservation of wetland and the “no-net-loss in wetland” principle. He asked whether the “no-net-loss” principle related to no-net-loss in value and function only or on “area” and “function”, and whether the applicants’ proposed increase in the function of the remaining fishponds or reedbeds could adequately compensate for the 8.2 ha loss in wetland. By simple analogy, it was doubtful whether an increase of 50% of the function of the remaining wetland could compensate for a further 20 ha loss of wetland. DAFC’s advice on this matter was requested. He further asked about the environmental impacts caused by the proposed development in the 40 ha development site comprising 16 ha of water channels during the construction stage and the time needed for restoring the environment to its original status. Some other Members expressed similar concerns on the “no-net-loss in wetland” principle and requested clarification on whether the construction of water channels would involve pond filling and whether the provision of the 7.8 ha of reedbed in LC would result in any change in ecological value. A Member also opined that the “no-net-loss in wetland” principle referring to both loss in “area” and “function” was unquestionable.

20. In response, Ms Maggie M.Y. Chin pointed out that as the response of birds to landuse changes was very complex and there was a need to maintain the completeness of the Deep Bay wetland ecosystem, the “precautionary approach” and “no-net-loss in wetland” principles were adopted for developments in the area. According to TPB PG-No. 12B, all fish ponds within the Deep Bay Area should be conserved. The guidelines also stated that “no-net-loss” could refer both to loss in “area” and “function”. Other than TPB PG-No. 12B, the ES for all the other “OU(CDWEA)” zones on the relevant OZPs also specified that “no-net-loss” referred to both loss in area and function. Even if only “no-net-loss” referred to no-net-loss in function, AFCD had advised that the proposed development could not meet the requirement.

21. Dr Winnie P.W. Kwok said that the 40 ha of the development site were basically ponds although some of which had been colonised by reedbeds. To implement the development, the wetland habitats within the site would need to be removed before the 16 ha of water channels could be built. Therefore, the area loss of wetland habitats as a result of the proposed development would be 40 ha. Although the applicants stressed that a lot of information on the ecological impact assessment had been included in their submissions, it was the first time at this meeting that they were advised on the types of wetland habitats, their

respective areas and ecological values which would be affected within the development site. Due to a lack of information in this aspect during the s.16 and s.17 applications, it was impossible to advise whether the proposed areas of reedbeds to be planted and enhanced functions of fish ponds would adequately compensate for the loss of the 40 ha of wetland habitats. Besides, the consultants of the applicants had also confirmed that the ecological value of the resulting 16 ha of water channels would be low and they should not be counted as compensation for the anticipated loss of wetland functions.

[Dr W.K. Yau left the meeting at this point.]

22. Dr Michael Leven advised that the impact of constructing the water channels was clearly significant and had to be mitigated by construction techniques. Since all of the 40 ha of the development footprint would not have any ecological value during construction, they had to prepare the mitigation areas so that they would be fully functional preceding to construction of the residential development. The 16 ha of land within the development site for water channels would have no ecological function until completion. However, wetland habitat could be changed very quickly by human influence, weather, fauna, etc. and could be created in a few years as compared with forest which might take hundreds of years. According to his experience, it was easy to restore lowland wetland function within two years as long as there was water supply and the function of the fauna and flora would be the same if not higher than that in the pre-construction stage.

23. To supplement, Mr M.Y. Wan said that they had explained in the s.16 application stage that the development would take place in three stages. The environment of the whole Deep Bay area had to be stabilized before the first stage of construction would commence. After obtaining the environmental permit and before completion of the land exchange to avoid kicking start the Building Covenant, conservation works would be carried out in the private land first over which they had control. Under EIAO, it would be demonstrated to EPD that in each phase of development, the wetland function of the area would not be less than that before the construction work. The development would not involve importation of fill.

24. Mr M.Y. Wan continued to say that the “no-net-loss” concept was first suggested in the United States of America to prevent extinguishment of pristine wetland. Under

pristine situation, to ensure no-net-loss in “area” was of paramount importance. However, the brackish wetlands in NSW and LC had all become fresh water wetlands currently not under use and were facing threats of continuous degradation from wet reedbeds to dry reedbeds, and then to grassland. Water in these ponds was hydraulically delinked from Inner Deep Bay and enhancement of wetland could be done through active management. It was noted that the provision of a wetland park had functionally compensated for the loss of wetland of the whole Tin Shui Wai and a Lok Ma Chau mitigation wetland had compensated for the loss due to construction of the West Rail. Doing nothing and leaving the wetland to go through the natural process of succession was not a solution.

25. Mr Ian Brownlee considered that the principle of “no-net-loss in wetland” was not a matter of opinion but a matter of what TPB PG-No. 12B required. Reading the guidelines as a whole, function was the crux of the matter. The loss of some form of wetland in NSW was inevitable in order to achieve the development envisaged in the OZP.

26. With regard to the ecological value of fish ponds and reedbeds, Dr Michael Leven said that they were different wetland habitats. There were different types of fauna and species of birds in fish ponds and in reedbeds. The reason for the proposed increase of reedbed area at NSW and LC and a decrease in the fish pond area at NSW and LC in total was that the knowledge acquired through their experience was that to enhance fish pond habitat was relatively easier than to enhance the reedbed habitat. In order to ensure that the requirement of no-net-loss in ecological function was met, the compensation proposal was suggested. Besides, it was generally agreed by the ecological community including academics, Government and the green groups that it was the reedbeds that made NSW so special.

27. Ms Sunny W.S. Chow said that the provision of 7.8 ha of reedbeds in LC, as proposed by the applicants, was to compensate for the loss of an extensive area of reedbeds in the development site because there was not enough space for planting new reedbeds in NSW WEA. According to a table in the s.16 submission, the area of the existing reedbeds within the application site at NSW was 48.5 ha. Under the proposed development, the area of reedbeds in LC would be 7.8 ha and that in NSW WEA would be 21.3 ha, adding up to a total of 29.1 ha. The area loss of reedbeds would still not be adequately compensated for. In terms of function, the 7.8 ha of reedbeds in LC was separated from the existing continuous

reedbed in NSW, and hence there would still be fragmentation of reedbeds. As such, the functional loss of reedbeds might also not be adequately compensated.

28. Ms Sunny W.S. Chow added that the applicants had indicated that reedbeds and fish ponds served different functions and enhancement of the remaining fish ponds was to compensate for the loss of fish ponds arising from the residential development and the planting of new reedbeds. However, the applicants did not demonstrate how the enhancement of fishponds in LC could compensate for the loss of reedbeds in the development site and/or the secondary loss of fishponds in LCNR. The crux of the problem was that the development footprint was too large, rendering an extensive compensation necessary, but such compensation would lead to secondary loss of fish pond habitats and at the same time increase the risk of success of the mitigation.

29. In response to a question by a Member on the drainage and sewerage arrangement for the development, Mr Ian Brownlee pointed out that the proposal was to incorporate a sewer into the bridge across Shan Pui River connecting to YLIE. Sewage would be taken to the sewer across the bridge to the government sewerage system on the other side of the river to the Yuen Long Treatment Works. This was a technically acceptable solution.

30. In response to a Member's question of why GL was included in the development site, Mr M.Y. Wan advised that the project was to comply with the requirements of the "OU(CDWEA)" zone. Although LandsD had indicated that land exchange for the proposed development was not guaranteed, such was unrelated to the review application under discussion. What they had done was in accordance with the requirement of the OZP.

31. In response to a Member's question on the impacts of the 20 m wide water channels within the development site on migrant water birds, Dr Michael Leven pointed out that broadly speaking, large birds would be dissuaded from using the channels because they did not like the sense of enclosure but preferred larger open space whilst smaller birds, such as kingfishers, would be happy to use them. It was fully acknowledged that the water channels would not have as high an ecological function as that of the existing situation and this was the reason why mitigation measures were proposed by improving the habitat quality elsewhere.

### Development layout and building height

32. A Member asked if adjustments to the layout and height of buildings had been considered and whether proposing taller buildings in the scheme would benefit the ecology more. In response, Dr Michael Leven said that fowls treated buildings as rocks and would either ignore them or avoid them. They would ignore lower buildings more than they would for higher buildings. As such, they would fly over 3-storey high village houses but not over 25-storey high towers.

33. Mr M.Y. Wan pointed out that piling was required for tall buildings. No piling or only bore piling was required for 3-storey houses, which would cause less impact on the environment. Besides, foundation on marine deposits was a problem. As far as urban design was concerned, buildings should not be higher than those in YLIE on the opposite site of Shan Pui River. Hence, lower buildings were preferred.

### Location of development

34. Given that the development site had been reduced in the s.17 review application, a Member questioned why the location of 13 ha of the development site in an ecologically highly sensitive area was still unavoidable. Another Member also asked whether the applicants had considered locating the development in the southwestern part of NSW. In response, Mr M.Y. Wan said that the ecological conditions as presented in their presentation showed only transient conditions. Without proper management, the permanently wet reedbeds would be degraded to seasonally wet reedbeds. In the long run, the development site should be in the southernmost part of the site as it would be the furthest away from Deep Bay. In three years' time, the ecological status of different parts of the site would be changed if the review application was not approved. Due to the transient nature of the environment, the implementation of a long-term active conservation management plan should be the goal.

35. Mr Ian Brownlee supplemented that it was not easy to locate development on the least environmental sensitive areas. The whole of the NSW site had some ecological significance. While EPD had indicated the location of the least ecologically sensitive areas as shown on Figure J of the applicants' submission, these areas were subject to various constraints. With a holistic approach to find the least environmentally sensitive area, the

current development site was hence worked out.

Minimum pond filling and limited development

36. The Chairman pointed out that according to paragraph 9.7.2 of the ES of NSW OZP, under the PPP approach, the Board might, subject to the “no-net-loss in wetland” principle, allowed limited low-density private residential or passive recreational development within this zone. Development of this nature should involve minimum pond filling. The Chairman asked the applicants to explain how the proposed development would have complied with the said requirements.

37. In response, Mr M.Y. Wan said that the proposal was for implementation of the OZP. The “limited development” requirement had been determined by the Board in the permitted GFA in the Notes of the OZP, after the promulgation of the TPB Guidelines. Since a domestic GFA of 306,581m<sup>2</sup> was allowed, the plot ratio for a 40 ha development site boiled down to 0.75, which was not high compared to a low-rise, low-density residential development in a rural setting. Besides, there would be no imported fill for pond filling. Foundation works would be done by using earth extracted from ponds. As such, there would be no filling of ponds. Mr M.Y. Wan further said that a planning permission had been granted when the site was covered by a DPA plan. The site had gone through the plan making stage. Planning intention and guidelines for development of the site had all been decided. The matter to be considered was whether the proposed development was in compliance with the guidelines for development of the site.

38. In response to the Chairman’s further question, Mr M.Y. Wan said that with a development site of 40 ha in an application site of about 180 ha, the footprint of development was 22%.

Information presented and tabled in the meeting

39. The Chairman asked if the information on the wetland habitat areas within the development site as shown on the applicants’ powerpoint presentation and tabled at the meeting had been included in their submission since AFCD had indicated that this was their first time to be provided with this kind of information. In response, Mr Ian Brownlee said that the information was included in 2 parts in their submissions. There was a drawing showing the habitats of the whole site in the s.16 submission and a drawing showing the

habits of the whole site plus the surrounding areas in the s.17 submission. The information was in the submissions but not in a form that was easy to understand as the one presented in the powerpoint. Dr Michael Leven confirmed that the figures of wetland habitats as shown in the table of the powerpoint presentation had not been provided in the previous submissions.

#### Discussion with AFCD

40. In response to a Member's question of whether there had been discussions between the applicants and AFCD to bridge the differences in views towards the development scheme, Mr Ian Brownlee said that five discussions with relevant government departments had been coordinated by PlanD. Although there were differences in views but there was no difference in intention. The applicants aimed to implement the project so that money was available for permanent conservation. Other than the requirement of locating the development site furthest to the south, no information had been provided by AFCD on where the least ecologically sensitive areas were. As the Amended Scheme was considered visually, ecologically and functionally acceptable, the proposal was put forward for the Board's consideration. The Board might approve it with the normal approval conditions, approve it with additional conditions regarding the mix and height of buildings the Board considered appropriate, or alternatively reject it with indications to the applicants the kind of development that was considered compatible with the location and with the amount of wetland that could be affected.

41. Dr Winnie P.W. Kwok advised that they had indicated during a meeting with the consultants that they had reservation on the 40 ha development site which was considered as extensive. They questioned why constructing the 16 ha of water channels between the houses would have no ecological value. It was not understood why on top of an area of 24 ha for houses, the consultants still insisted on an area of 16 ha of water channels for the development that would result in a development site of 40 ha. Regarding the less ecologically sensitive areas, AFCD had indicated that there was grassland near the high-rise buildings proposed in the scheme.

42. Mr M.Y. Wan said that there was a requirement for prescribed window of building developments. The water channels were to meet the requirement and served as an alternative to private gardens in view of the special location of the Site. He did not agree

that the water channels did not have any ecological value given that the area of the water channels was much bigger than a wildlife garden which served some ecological function and only required a much smaller area.

43. Noting that Members had no further questions, the Chairman informed the applicants' representatives that the hearing procedure for the review application had completed. The Board would inform the applicants of the Board's decision in due course. The Chairman thanked the applicants' representatives and the representatives of PlanD and AFCD for attending the meeting. They all left the meeting at this point.

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

#### Deliberation Session

44. The Chairman said that in considering the review application, Members would need to consider whether the revised scheme, with a decrease of the development site area from 49.2 ha to 40 ha for 960 houses and 640 apartments and a reduction in building height, had met the planning requirements of the site.

#### "Not-net-loss" principle

45. A Member opined that he was not convinced that the applicants had provided sufficient information to justify that the proposed development had met all the planning requirements. The applicants should further discuss with and provide AFCD with the required information, especially the baseline habitat information, for working out an acceptable land use proposal. The applicants had also failed to show how an increase in the function of the fish ponds by 25% could compensate for the loss of wetland. AFCD had indicated that even if the ecological function of the ponds could be increased by 25% through habitat enhancement, it had yet to ascertain that the function loss due to the development of 40 ha would be adequately compensated, hence meeting the no-net-loss in wetland principle.

46. A Member pointed out that it had been evidenced in the West Rail case that small ponds did not work for compensation. Due regard must be paid to the comments of DAFC, who had a lot of first-hand information and was expert in the field. The transient nature of wetland as claimed by the applicants that the permanently wet reedbeds would turn

into grassland over a short period of time was ungrounded. The FLW case, with a development site of 5% of the whole development, was a relevant reference for considering the current proposal in NSW. The current proposal with a footprint of 22% of the application site (33% of the NSW site) was too large and would not be acceptable to the public at large.

47. The Secretary supplemented for Members' information that as far as the whole site including LC was concerned, the development footprint of the proposed scheme was 22% of the site. If only NSW was taken into account, it was 33%. Both areas for the proposed houses and water channels should be included in the calculation of the development footprint.

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

48. Members were of the view that "no-net-loss in wetland" referred to loss both in "area" and "function". If only function was concerned, there was a risk involved because the baseline conditions of wetland were subject to manipulation to make subsequent increase in function easy. There might also be cases that compensation for loss of an extensive area of natural habitat was made available by enhancement of a small piece of land through artificial or scientific means. The applicants had failed to demonstrate that the proposed development had met the "no-net-loss" principle.

49. The Secretary supplemented that when the "Study on the Ecological Value of Fish Ponds in the Deep Bay Area" (the Study) was conducted, the "no-net-loss in wetland" referred to both loss in "area" and "function". Paragraph 31 of the TPB Paper No. 5022 on the Study stated that the partnership approach was to allow limited private 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 development site. The "no-net-loss" principle of the Study referred to both "area" and "function" of wetland. This "no-net-loss in wetland" principle together with the PPP approach advocated were subsequently incorporated into TPB PG-No. 12B (the guidelines). Paragraph 5 of the guidelines stated that in considering development proposals in the Deep Bay Area, the Board adopted the Study's recommended principle of "no-net-loss in wetland" which provided for the conservation of continuous and adjoining fish ponds. The "no-net loss in wetland" could refer to both loss in "area" and

“function”. As regards how “limited development” be feasible under the “no-net loss in wetland” principle, the consultant of the Study opined that with the consolidation of some smaller fish ponds into larger ponds, the area saved from pond bunds could make “limited development” viable. It was again clearly mentioned in paragraph 9.7.1 of the ES of NSW OZP that “no-net-loss in wetland” could refer to both loss in area and function. Throughout the history of the preparation of guidelines for development of the site, the “no-net-loss in wetland” principle referred to both “area” and “function”.

“Limited development” with “minimum pond filling”

50. With respect to the principle of “minimum pond filling”, the Secretary supplemented for Members’ information that paragraph 9.7.2 of the ES of the NSW OZP stated that the Board might, subject to the “no-net-loss in wetland” principle, allow limited low-density residential or passive recreational development within this zone in exchange for committed long-term conservation and management of the remaining ponds or wetland within a development site. Development of this nature should involve minimum pond filling and no decline in the wetland function of the fish ponds within and near the development site. A maximum GFA for development, which denoted the ceiling of development permitted on the site, had been stipulated on NSW OZP. In order to attain the maximum GFA for development, the applicant still had to meet the requirement of the “no-net-loss in wetland” principle both in area and in function. As regards what constituted “minimum pond filling”, it was a matter for the Board to decide.

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

51. A Member considered that what constituted “minimum” should be based on the merits of each case and whether the proposed scale of development would have a bearing on the achievement of the other objectives. If the proposed development would hinder the achievement of the other objectives, the proposal was not a “limited development”. The GFA stipulated on the NSW OZP reflected only the maximum allowed, not an entitlement. The applicants had not demonstrated with sufficient information to show that the proposed development was a “limited development” involving “minimum pond filling”.

52. A Member expressed a concern on whether the water channels within the development site would be breeding grounds for mosquitoes and bugs. Should the future

residents or management company try to eliminate the pest problems by spraying pesticides into the water channels, the ecologically value, if any, of the waterways, would vanish.

#### Technical Assessments

53. Members noted that the various technical assessments submitted were not acceptable to concerned Government departments.

#### Long-term conservation management plan

54. Members considered that the applicants had not provided detailed information on how the long-term conservation management of wetland would be sustainable and there was no justification as to whether the pledged funding for management in the Amended Scheme would be sufficient. Although the applicants had tabled a breakdown of the 3.7 million funding for management at the meeting, as this information together with the responses to departmental comments tabled at the meeting and a slide of the powerpoint presentation with respect to the current ecological conditions of the development site had not been included in the previous submissions, the breakdown and the other information not included in the previous application submissions were considered by the Members as not admissible.

#### Undesirable precedent

55. Members considered that if the application, which had yet to meet the relevant requirements, was approved, it would set an undesirable precedent for similar applications, leading to cumulative negative impacts on the wetland in the Deep Bay Area.

56. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper. Members agreed that the reasons for rejection should be suitably amended to reflect Members' views as expressed in the meeting. The reasons were:

- “(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 which is intended for conservation and enhancement of ecological value and functions of the existing fish

ponds or wetland. The applicants have not demonstrated how the “no-net-loss in wetland” principle specified in the planning intention of the zone have been met;

- (b) the proposed development is not in line with Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB-PG No. 12B) in that the “no-net-loss in wetland” and “minimum pond filling” principles are not complied with. There are inadequacies in the baseline habitat ecological information. Besides, with the calculation of only the “water surfaces” before and after development (and omitting pond bunds) without considering the direct ecological impact on the wetland habitats within the development site, the applicants have under-estimated the existing ecological values of the habitats and the net loss in wetland, which refers to both loss in area and function. The Ecological Impact Assessment and the proposed mitigation measures are also 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. The development area of 40 ha is excessive and could not be regarded as a “limited development” as stated in TPB-PG No. 12B. The precautionary approach enshrined in the Guidelines to protecting the wetland system has not been met;
  
- (c) the proposed development does not conform to the “Private-Public Partnership Approach” in that the development is not limited to the ecologically less sensitive portions of the site, and there is inadequate information to demonstrate how the long-term conservation and management of the Wetland Enhancement Area in Nam Sang Wai and the Lut Chau Nature Reserve could be satisfactorily achieved;
  
- (d) the submitted Environmental Assessment, Drainage Impact Assessment, Visual Impact Assessment and Landscape Master Plan are inadequate to demonstrate that the proposed development would not generate adverse environmental, drainage, visual and landscape impacts on the

surrounding areas; and

- (e) the approval of the application would set an undesirable precedent for similar applications within the “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.”

57. The meeting was adjourned for lunch break at 3:25 p.m..

58. The meeting was resumed at 3:50 p.m.

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

Mr Thomas T.M. Chow Chairman

Mr Stanley Y.F. Wong Vice-chairman

Mr Timothy K.W. Ma

Professor Edwin H.W. Chan

Ms Julia Lau

Mr Laurence L.J. Li

Mr Roger K.H. Luk

Professor K.C. Chau

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice Lai

Mr Dominic K.K. Lam

Ms Christina M. Lee

Mr Stephen H.B. Yau

Mr F. C. Chan

Director of Lands

Ms Bernadette Linn

Director of Planning

Mr K.K. Ling

Fanling, Sheung Shui and Yuen Long East District

**Agenda Item 4**

[Open Meeting (Presentation and Question Session only)]

Further Consideration of Review of Application No. A/YL-PH/653

Temporary Car Park for Villagers (Excluding Container Vehicle) for a Period of 1 Year in “Village Type Development” zone, Lots 83(Part), 85RP(Part), 86(Part), 87S.B(Part), 87RP(Part) and 92RP(Part) in D.D. 111 and Adjoining Government Land, Pat Heung, Yuen Long  
(TPB Paper No. 9567)

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[The meeting was conducted in Cantonese.]

60. The Chairman informed Members that this was a further consideration of a review application which the Board considered in March 2013 and decided to defer decision pending submission of further information (FI) by the applicant and verification of some information by the Planning Department (PlanD).

61. The following representative from PlanD, and the applicant's representatives were invited to the meeting at this point:

Ms Maggie M.Y. Chin	-	District Planning Officer/Fanling, Sheung Shui and Yuen Long East, PlanD (DPO/FS&YLE)
Mr Tang Yung Yiu	]	
Mr Lau Choi Ming	]	
Mr Cheung Muk Hing	]	Applicant's representative
Mr Cheung Chi Fai	]	
Ms Chan Sin Yan	]	
Mr Cheng Ka Cheung	]	
Ms Lam Wing Kwan	]	

62. The Chairman extended a welcome and explained the procedures of the

review hearing. He then invited Ms Maggie M.Y. Chin (DPO/FS&YLE) to brief Members on the further consideration of the review application.

63. With the aid of a Powerpoint presentation, Ms Maggie M.Y. Chin made a presentation and covered the following main points as detailed in the Paper:

#### Background

- (a) the applicant sought planning permission for a temporary car park for villagers (excluding container vehicle) with 15 car parking spaces for a period of one year at the site. The site fell within an area zoned “Village Type Development” (“V”) on the approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11;
- (b) the site had an area of 1,318 m<sup>2</sup>, including 110m<sup>2</sup> of government land. The site was elongated in configuration and was currently paved. The site was located in Shui Kan Shek and accessible via a local track branching off Fan Kam Road to its west at a distance of about 120m. The site was located within the village cluster with village houses in its surroundings;
- (c) on 7.12.2012, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) rejected the application and the reasons were that the proposed development was not in line with the planning intention of the “V” zone and the applicant failed to demonstrate that the development would not have adverse environmental impacts on the adjacent residential dwellings;

#### *The Review Application*

- (d) on 27.12.2012, the applicant applied for a review of RNTPC’s decision. On 22.3.2013, the Board considered the review application. At the meeting, the applicant’s representative provided the following supplementary information to support the review:

- (i) the subject car park was an ancillary facility for the village development and supported by local villagers. The cars to be parked on the site would not block other vehicles using the access road within the site;
  - (ii) the site mainly comprised land owned by two villagers and Tso Tong. All the owners agreed to contribute their land for providing the car park which would only be for the use of the villagers;
  - (iii) a registration system for the subject car park would be set up and the Tso Tong managers would assist in allocating the parking spaces to the villagers;
  - (iv) the subject car park with the provision of 15 parking spaces could serve as a buffer between the village houses on both sides of the site, which would enhance the air ventilation and the environment in the area; and
  - (v) ancillary car parks were commonly found in the local villages in the New Territories. A total of 10 existing car parks in Pat Heung and Kam Tin areas within “V” zone on the respective OZPs were quoted as examples;
- (e) at the review hearing, Members had different views on the application. Some Members considered that the location of the car park at the core of the village cluster, rather than at the fringe of the “V” zone, was inappropriate and might generate environmental nuisances to the nearby residents. Approval of the application might also set an undesirable precedent on the Small House policy which did not include provision of car parking spaces and the use of the land for car parking might lead to demand for additional land to meet the Small House demand. Some members were, however,

sympathetic to the application as there was a parking need for the local villagers and the parking of 15 cars would not generate significant environmental impacts. It was noted at the meeting that the land owned by Tso Tong would unlikely be used for Small House Development;

- (f) after deliberation, the Board decided to defer making a decision on the review application pending the applicant's submission of FI on the land ownership pattern of the site and the revised car park layout for the 15 parking spaces. The Board also requested PlanD to verify the land ownership pattern of the site and the existing car parks in 10 villages within "V" zones quoted by the applicant in the review hearing (as shown in Plan FR-5a of the Paper);

#### Further Information Submitted

- (g) on 24.9.2013, 3.12.2013, 7.12.2013 and 9.12.2013, the applicant submitted FI to support the review application. The FI included a revised car park layout, land ownership pattern plan, authorization letters from the land owners, minutes of meeting of the "Cheung Shui Pong Tso" (「張瑞邦祖」) and the rules for using the subject car park. On 20.12.2013, the Board agreed to PlanD's request for deferment of consideration of the application for two months to allow sufficient time to consult relevant departments on the FI submitted by the applicant on 9.12.2013. The relevant government departments were consulted and had no adverse comments on the FI;
- (h) the FI submitted by the applicant was included in Enclosures D to F of the Paper as summarised below:
- (i) the revised car park layout showed that the 15 car parking spaces would be located in the southern portion of the site (with an area of about 685m<sup>2</sup>). The northern portion of the site (with an area of about 633m<sup>2</sup>) would be used for

landscaping, car manoeuvring and open space purposes. The parking spaces would be allocated to villagers living in the village houses to the east of the site;

- (ii) the landownership pattern plan showed that the site comprised land owned by Get Billion Development Limited in the northern portion and the Cheung Shui Pong Tso, Mr Cheung Kwok Hung and Ming Mark Company Limited and two plots of government land in the southern portion. According to the applicant, the land owners had agreed that the site would be used for car parking for the villagers. In addition, a management committee would be set up for managing the car park; and
  - (iii) a set of rules for using the car park was submitted. Those ruled included: only vehicles authorised by the management committee would be allowed to park at the designated parking spaces; vehicles exceeding 5.5 tonnes were not allowed; and engines of vehicles should be turned off when parked within the site;
- (i) PlanD was requested to verify the land ownership pattern and the examples of 10 existing village car parks in “V” zones within the Pat Heung and Kam Tin areas mentioned by the applicant at the hearing on 22.3.2013. It was found that:

*Land Ownership Pattern*

- (i) based on the Land Registry Records, the land ownership pattern plan submitted by the applicant was in order. District Lands Office/Yuen Long of Lands Department (LandsD) advised that the concerned lots were Old Scheduled Agricultural Lots not intended for car park purpose and no permission had been given for occupation of the government

land within the site for the proposed temporary car park use;

*Verification of the Existing Car Parks in “V” Zones*

- (ii) all of the car parks quoted by the applicant, except the one in Yuen Kong San Tsuen which was currently used for storage of miscellaneous items, were being used for parking of private vehicles without valid planning permission. The Planning Authority was undertaking enforcement action against unauthorized parking of vehicles use at five sites. For the remaining four sites, they were under investigation for collection of evidence to confirm if there were unauthorized development involved; and
- (j) PlanD’s view - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 5 of the Paper, which were summarised below:

*Proposed Temporary Car Park and Revised Layout*

- (i) the planning intention of the “V” zone was to reflect the existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. The proposed temporary car park was not in line with the planning intention of the “V” zone, though it might serve the parking needs of some of the local villagers;
- (ii) according to the revised car park layout, all parking spaces would be concentrated in the narrow southern portion of the site, leaving the remaining 633m<sup>2</sup> (or 48%) to its north for car manoeuvring/vehicular access, landscaping and open space uses. The revised layout plan was undesirable as the designated car park would be directly adjoining the village houses to its west with a buffer of only about 1.5m;

- (iii) the temporary car park would be operated on a 24-hour daily basis. As the proposed car parking spaces were located very close to the village houses to its west, they would generate adverse environmental impacts, in particular noise nuisance to the nearby residents. The applicant said that a ‘management committee’ would be set up and 11 house rules had been proposed; however, it was uncertain how the house rules would be enforced;
- (iv) the proposed car park would be connected to Fan Kam Road via a 120m long local track, which was a key access for local villagers. The proposed car park would increase vehicular traffic on this narrow track, of only about 3m to 4m wide and without proper pavement for pedestrians, and pose road safety concern on pedestrians;

*Similar/Previous Applications*

- (v) there were a total of 11 similar/previous applications for temporary public vehicle park within the “V” zones or on sites straddling “V” zone on the Pat Heung OZP as detailed in paragraph 5.7 of the Paper;
- (vi) these applications were approved on the considerations, amongst others, that the concerned application sites were located at the fringe of the villages and not in close proximity to the village houses to avoid possible environmental nuisances generated to the nearby residents. As for the current application, the development was located at the core of the village cluster and surrounded by many village houses at mostly about 1m to 5m away from the site; and
- (vii) the site was the subject of a previous application No. A/YL-PH/642 for public vehicle park (private cars and light

goods vehicles) rejected by RNTPC on 20.7.2012. The previous application was rejected by RNTPC on similar grounds as the current application. Compared with the previous application No. A/YL-PH/642, the current application involved a change of the applied use from 'public vehicle park (private car and light goods vehicles)' to 'temporary car park for villagers (excluding container vehicle)'; reduction in parking spaces from 36 to 15 numbers; and change of the temporary approval period sought from 3 years to 1 year. However, there was no major change in planning circumstances that warranted a departure from RNTPC's previous decision.

64. The Chairman then invited the applicant's representatives to elaborate on the review application. With the aid of a Powerpoint presentation, Mr Tang Yung Yiu made the following main points:

- (a) he was a local villager of Shui Kan Shek. There was strong demand for car parking spaces for village houses. While ancillary car parking was provided for housing estates, no area was reserved for car parking needs of villagers when the Board designated areas for village house development;
- (b) the site for the proposed public vehicle park was close to the village houses, and would be convenient for villagers. The vehicle park would only be used by villagers, and this would ensure that cars are properly parked and managed in an orderly manner. With regard to the comment that there might be environmental impacts as the vehicle park would be operated on a 24-hour basis, it was pointed out that vehicles such as taxi would also be allowed to access the site for drop-off at any time of the day. The vehicle park would only be used by villagers, who would be considerate and would avoid creating adverse impacts on their neighbours;

- (c) some land within the site was private land and the land owner had contributed the land for villagers to use for access and car parking purposes. Each car parking space would be designated for use by specific families in the village;
- (d) in response to previous comments from Members, they had included some landscaping proposals, which included planting a tree in the northern part of the site;
- (e) the Board had approved many public vehicle parks within “V” zones in the past. Examples in Pat Heung and Yuen Long were quoted as summarised in the table below. Most of those approved vehicle parks were also for use by villagers, were surrounded by village houses and some of the vehicle parks also catered for parking of light goods vehicle;

Application No. (Approval Date)	Proposed Use (Location)
A/YL-KTS/571 (10.8.2012)	Temporary Public vehicle park for private car and van for 3 years (Tin Sam San Tsuen, Yuen Long)
A/YL-PS/366 (21.6.2013)	Public vehicle park for private car and light goods vehicle (3 years) (Ping Shan near Tsui Sing Lau Pagoda)
A/YL-PS/371 (24.2.2012)	Vehicle park for coaches (3 years) (Hang Mei Tsuen, Ping Shan, Yuen Long)
A/YL-PS/382 (15.6.2012)	Public vehicle park for private car and light goods vehicle (3 years) (Ping Shan, Yuen Long)
A/YL-PS/390 (21.9.2012)	Public vehicle park for private car and light goods vehicle (3 years) (Sheung Cheung Wai, Yuen Long)
A/YL-PS/410	Public vehicle park for private car and light

(21.6.2013)	goods vehicle (3 years) (Sheung Cheung Wai, Yuen Long)
A/YL-SK/177 (12.7.2012)	Public vehicle park for private car and light goods vehicle (3 years) [According to the Board's record, this application was for 'Public vehicle park (excluding container vehicle) (3 years)' approved on 7.12.2012] (Shek Kong, Kam Tin Road)
A/YL-ST/422 (5.10.2012)	Public vehicle park (excluding container vehicle) (3 years) (Sam Tin, Yuen Long)
A/YL-TYST/627 (24.5.2013)	Public vehicle park for private car and light goods vehicle (3 years)
A/YL-TYST/629 (21.6.2012)	Public vehicle park for private car and light goods vehicle (3 years)

- (f) for another example at Lam Tsuen, the local villagers there agreed on an area most convenient for car parking use within the village and the car park did not create any adverse environmental impacts;
- (g) examples of public vehicle park built by the Government were shown to demonstrate that those car parks were also located very close to village houses; and
- (h) Members were urged to give favourable consideration to their application. Otherwise, villagers would have no space to park their cars.

65. As the presentation was completed, the Chairman invited questions from Members. A Member asked DPO/FS&YLR whether the approved cases quoted by the applicant's representative all fell within the definition of 'Public Vehicle Park' use,

that was a Column 2 use under the Notes of the “V” zone. In response, Ms Maggie M.Y. Chin said that ‘Public Vehicle Park’ meant a vehicle park available for the parking use of the general public, usually on payment of a fee. The approved cases quoted in the applicant’s presentation were all ‘Public Vehicle Park’, but they mainly involved sites that were located near main roads and sites that were adjacent to other vehicle parks or open storage uses. The current application was different in that the site was located within the village and surrounded by village houses. In response to the Member’s further question, Ms Chin said that public vehicle parks in villages would be available for parking by all members of the public. Some vehicle parks required payment of a fee and some would be free of charge.

66. In response to the Chairman’s question, Mr Tang Yung Yiu said they had been previously fined for using the site for unauthorised vehicle park, hence the site was currently left vacant and villagers had to park their cars on the road. If housing estates were provided with ancillary car parking spaces, there was no reason why car parking spaces were not reserved for village house developments. He reiterated that there was very strong demand for car parking spaces from residents in village houses and it was not reasonable for villagers to park their cars far from home.

67. A Member asked for an elaboration on the landscaping proposal. Mr Tang Yung Yiu said that a roundabout was proposed in the northern part of the site and a tree was proposed to be planted at the roundabout. Some trees were also proposed to be planted along the western boundary of the site, as annotated by a green line on Drawing FR-1 of the Paper, for amenity purpose.

68. A Member asked whether the applicant had information about the actual number of cars owned by residents in the village. Mr Tang Yung Yiu said that the proposed 15 number of car parking spaces were to satisfy the current demand of the local villagers.

69. A Member asked whether all villagers living in the vicinity of the proposed vehicle park supported the application. Mr Tang Yung Yiu said that the signature campaign in support of the application was signed by all villagers living adjacent to the site.

70. In response to the Chairman's question, Mr Tang Yung Yiu said that Mr Lau Choi Ming (who was present at the meeting) had voluntarily provided the funding for paving the site. Mr Lau had also funded the drainage improvement works in the vicinity of the site.

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

71. In response to the Chairman's further question about the government land within the site that was being paved, Mr Tang Yung Yiu said that only a small piece of government land was involved and that was only paved for amenity reason. Mr Tang Yung Yiu also advised that the proposed vehicle park would only be used by villagers and no fees would be charged.

72. A Member asked about the number of outstanding Small House applications and whether there was sufficient land zoned "V" to meet the Small House demand for the village. In response, Ms Maggie M.Y. Chin said that there was insufficient land zoned "V" to meet the Small House demand for the village but the detailed information on outstanding Small House application was not at hand.

73. A Member asked whether there were any justifications for the lavish provision of only 15 car parking spaces on the site of 1,318 m<sup>2</sup>, i.e. more than 100m<sup>2</sup> per space. Another Member asked the applicant whether it was feasible to move the proposed parking spaces to the northern part of the site. In response, Mr Tang Yung Yiu said that the current layout of locating the 15 parking spaces in the southern part of the site was made on the request of government department so as to leave the northern part of the site for open space and landscaping. They had no objection to relocating the car parking spaces back to the northern portion of the site if considered appropriate by the Board. However, they were frustrated by being asked to alter the layout again and again. He emphasized that the proposed vehicle park was not for profit-making but purely for the benefit of the villagers. A Member asked Mr Tang Yung Yiu whether he was in the capacity to represent all the land owners, i.e. Get Billion Development Limited, Cheung Kwok Hung and Cheung Shui Pong Tso. Mr Tang Yung Yiu replied that he was representing all land owners of the site and in fact

representatives of the land owners were present at the meeting.

74. The Chairman asked whether it would be acceptable to the applicant if the Board proposed a reduction in site area and/or to restrict the car parking spaces to the southern part of the site as shown in Drawing FR-1 of the Paper. Mr Tang Yung Yiu confirmed that it was acceptable. He further said that if the Board did not approve the vehicle park, there was no space for villagers to park their car and they would have to continue to park along the road.

75. In response to the Vice-chairman's question, Mr Tang Yung Yiu reconfirmed that the vehicle park would not be operated on a commercial basis and no fees would be charged for using the car park by villagers of Shui Kan Shek. Ms Maggie M.Y. Chin said that while it was noted that the vehicle park was for serving the needs of the villagers, there were public comments from local villagers objecting to the review application and raising concerns on the adverse environmental impacts. Mr Tang Yung Yiu said that the villager who raised objection to the application lived in the house abutting the southern tip of the site, and the objection could not be substantiated as the objector also parked his car adjacent to his house directly abutting the site.

76. As the applicant's representatives had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. The Board would further deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked DPO/FS&YLE and the applicant's representatives for attending the meeting. They all left the meeting at this point.

#### Deliberation

77. The Chairman asked Members to deliberate on the review application, taking account of the written submission and presentation at the hearing. A Member said that if the applicant agreed to reduce the site area by only including the southern portion of the site for the proposed vehicle parks, the application could be approved

on sympathetic grounds as the car park would be only be used by local villagers free of charge and there was a parking need for the villagers.

78. Another Member considered it more appropriate to restrict the layout of the car park spaces in the southern portion of the site as submitted by the applicant (Drawing FR-1) without changing the site area. The northern portion of the site could be for manoeuvring space for vehicles, including emergency vehicles. Otherwise, if land in the northern portion of the site was to be developed for other uses, it might affect the manoeuvring space for vehicles.

79. In response to the Chairman's question, the Secretary said that if the Board considered it appropriate to request the applicant to reduce the site area, e.g. excluding the northern portion of the site, the applicant should be required to submit a fresh application. Alternatively, Members might consider stipulating an approval condition on the implementation of the car parking layout as submitted by the applicant restricting the car parking spaces to the southern part of the site and the northern part of the site be left open. In so doing, no fresh application would be required.

80. A Member asked the Secretary whether stipulating the car parking layout as an approval condition would create any enforcement problems in future. If so, the Member considered that it would be more appropriate to request the applicant to submit a fresh application. In response, the Secretary said that when the Board approved planning applications, they were approved on the terms as submitted by the applicant. In this case, it would include the revised car parking layout plans as included in Drawings FR-1 and 2 of the Paper. Hence, if the future car parking spaces were located outside the designated area, say, in the northern part of the site, it would contravene the approval condition and the planning permission could be revoked. Hence, enforcement actions might be taken against the unauthorised car park. Stipulating the car parking layout as an approval condition might require the Planning Authority to check more details during site inspections. However, there would not be insurmountable problems for enforcement.

81. A Member did not agree with the applicant's argument that car parking

spaces should be reserved for village houses in “V” zones as a ‘right’. The current application was different from the previous cases shown in the applicant representative’s presentation in that the proposed vehicle park was located in a central location within the village cluster. The area proposed for the vehicle park, especially the northern part of the site was excessive; in fact, provision of a hammerhead would be sufficient for vehicles to turn around. In view of the above concerns, it might be an undesirable precedent if the current application was approved.

82. The Vice-chairman and two other Members considered that the application could be approved as it would help to meet the local demand for car parking; the car park would only be used by the local villagers; there were consent from all the concerned landowners; and most of the villagers living in the vicinity of the site supported the application despite the Board’s concern on potential environmental impacts. They considered that the number of car parking spaces should be restricted to 15 and the approval period should be for one year as proposed by the applicant. However, it might not be necessary to control the car parking layout.

83. A Member considered that the current application could be approved on a temporary basis for one year as proposed by the applicant. It was a special case in that the private land owners and the Tso Tong agreed to make available some land within the village cluster for a vehicle park and it was supported by many villagers. If the Board decided to approve the application, it should be made clear that the Board did not agree because car parking spaces should be reserved for village houses. Nevertheless, vehicle park proposals, such as the one in the current application, could be submitted to the Board for consideration on a case-by-case basis.

84. A Member considered that in-principle, the applicant should be asked to submit a fresh application due to the difficulties in enforcing an approval condition. Nevertheless, given that most Members considered that it was acceptable to approve the application on a temporary basis on sympathetic grounds, there was no objection. The Member considered that it was necessary to control the car park layout instead of only restricting the number of car parking spaces.

85. Members noted that a temporary approval of one year would unlikely affect any Small House applications as it would normally take more than one year to process a Small House application. If there was future application for Small House development, the Board might take that into consideration when considering any renewal of the planning permission on the site in future.

86. Mr K.K. Ling said that having regard to Member's general views to approve the application on sympathetic grounds, it might be appropriate to approve the application on the terms of the application as submitted, i.e. to control the number of car parking spaces to no more than 15 numbers and controlling the car parking layout. There should not be major difficulties for enforcing the planning conditions. In this regard, the Secretary referred Members to the proposed approval conditions in paragraph 6.2 of the Paper which would stipulate that the vehicle park (with not more than 15 car parking spaces) should only be for the use of local villagers and should follow the revised car park layout (submitted by the applicant on 7.12.2013).

87. After deliberation, Members decided to approve the application on a temporary basis for a period of one year until 14.2.2015, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions:

- “
- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the site at any time during the planning approval period;
  - (b) the implementation of the revised car park layout plan (submitted by the applicant on 7.12.2013) for the use of the local villagers only, as proposed by the applicant, at all times during the planning approval period;
  - (c) no more than 15 car parking spaces shall be provided at any time during the planning approval period;
  - (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road

Traffic Ordinance are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;

- (e) a notice should be posted at a prominent location of the site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the site at all times during the planning approval period;
- (f) a notice should be posted at a prominent location of the site to indicate the set of rules for using the development, as proposed by the applicant, at all times during the planning approval period;
- (g) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the site at any time during the planning approval period;
- (h) a vehicular access of 4.5m in width within the site, as proposed by the applicant, shall be maintained at all times during the planning approval period;
- (i) no reversing of vehicles into or out from the site is allowed at any time during the planning approval period;
- (j) the provision of mitigation measures to minimize any possible nuisance of noise and artificial lighting on the site to the residents nearby within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 14.5.2014;
- (k) the submission of the landscaping proposal within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 14.5.2014;
- (l) in relation to (k) above, the implementation of the landscaping proposal within 6 months from the date of planning approval to

the satisfaction of the Director of Planning or of the Town Planning Board by 14.8.2014;

- (m) the submission of drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.5.2014;
- (n) in relation to (m) above, the implementation of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.8.2014;
- (o) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.5.2014;
- (p) in relation to (o) above, the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.8.2014;
- (q) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (i) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (r) if any of the above planning conditions (j), (k), (l), (m), (n), (o) or (p) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (s) upon expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.”

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

- “ (a) prior planning permission should have been obtained before commencing the applied use at the site;

- (b) to resolve any land issue relating to the development with the concerned owner(s) of the site;
- (c) as a shorter approval period is granted to monitor the situation on the site given the development is located in a village cluster, shorter compliance periods are imposed accordingly;
- (d) note the District Lands Officer/Yuen Long, Lands Department's (LandsD) comments that the private land involved comprises Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structure is allowed to be erected without prior approval of the government. No permission has been given for the proposed use and/or occupation of the Government land (GL) within the site. The act of occupation of GL without Government's prior approval should not be encouraged. Access to the site requires traversing through other private lots and/or GL. LandsD provides no maintenance work for the GL involved and does not guarantee right-of-way. The lot owner concerned will still need to apply to LandsD to permit any additional/excessive structures to be erected or regularize any irregularities on the site. Besides, the applicant has to either exclude the GL portion from the site or apply for a formal approval prior to actual occupation of the GL portion. Such application will be considered by LandsD acting in the capacity as landlord at its sole discretion and there is no guarantee that such application will be approved. If the application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD;
- (e) note the Commissioner for Transport's comments that the dimension of the parking spaces for private cars is 5m x 2.5m. Besides, the site is connected to public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the

management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;

- (f) note the Chief Highway Engineer/New Territories West, Highways Department's comments that his department is not/shall not be responsible for the maintenance of any existing vehicular access connecting the site and Fan Kam Road;
- (g) adopt environmental mitigation measures as set out in the "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by Environmental Protection Department to minimize any potential environmental nuisances;
- (h) note the Director of Agriculture, Fisheries and Conservation's comments that the site is in vicinity to some watercourses. The applicant should adopt necessary measures to prevent polluting these watercourses during construction and operation;
- (i) note the Chief Engineer/Development(2), Water Supplies Department (WSD)'s comments that existing water mains will be affected. The developer shall bear the cost of any necessary diversion works affected by the proposed development. In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water mains shall be provided to WSD. No structure shall be erected over this waterworks reserve and such area shall not be used for storage or car-parking purposes. The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize;
- (j) note the Director of Fire Services' comments that in

consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plan should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority. Should the applicants wish to apply for exemption from the provision of certain FSIs as prescribed by his department, the applicants are required to provide justifications to his department for consideration; and

- (k) note the Director of Electrical and Mechanical Service's comments that the applicant shall approach the electricity supplier for the requisition of cable plans to find out whether there is any underground cable (and/or overhead line) within or in the vicinity of the site. Based on the cable plans obtained, if there is underground cable (and/or overhead line) within or in the vicinity of the site, prior consultation and arrangement with the electricity supplier is necessary for application site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV and above as stipulated in the Hong Kong Planning Standards and Guidelines published by the Planning Department. Prior to establishing any structure within the site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure. The "Code of Practice on Working near Electricity Supplier Lines" established under the Electricity Supply Lines (Protection) Regulation shall be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines."

[Mr Stephen H.B. Yau and Mr Lincoln L.H. Huang left the meeting at this point.]

Tuen Mun and Yuen Long West District

**Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-LFS/252

Proposed Temporary Warehouse (Storage of Household Materials and Canned Food) for a Period of 3 Years in “Green Belt” Zone, Lot 1564 RP in D.D.129, Lau Fau Shan, Yuen Long, New Territories

(TPB Paper No. 9546)

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[The meeting was conducted in Cantonese.]

89. Mr C.C. Lau, District Planning Officer/Tuen Mun and Yuen Long West, Planning Department (DPO/TM&YLW) (acting) and the applicant’s representative, Mr Ng Sai Wah, were invited to the meeting. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TM&YLW to brief Members on the review application.

90. With the aid of a Powerpoint presentation, Mr C.C. Lau presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to use the site for temporary warehouse (storage of household materials and canned food) for a period of three years. The site fell within an area zoned “Green Belt” (“GB”) on the approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP). The site was related to an unauthorised development involving storage;
- (b) the site, with an area of 2,709.7m<sup>2</sup>, was located to the northwest of the Hong Kong Wetland Park and accessible via a local track from Deep Bay Road. The surrounding areas were occupied by unused land and pond, open storage yards; a residential dwelling about 19m away; and a site with planning permission for a development of 116

residential units to its northwest. There was a one-storey structure on the site with a gross floor area of 2,130m<sup>2</sup>;

- (c) on 11.10.2013, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) rejected the application and the reasons were:
  - (i) the proposed the development was not in line with the planning intention of the “GB” zone, which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
  - (ii) the development was not in line with the Town Planning Board Guidelines No. 10 for “Application for Development within the Green Belt zone under section 16 of the Town Planning Ordinance” (TPB PG-No.10) in that the development would affect the existing natural landscape in the area and the applicant had not demonstrated that the proposed development would not have any adverse drainage and traffic impacts; and
  - (iii) approval of the application would set an undesirable precedent for similar open storage and warehouse use in the “GB” zone, the cumulative effect of which would result in a general degradation of the environment of the area;
- (d) on 15.11.2013, the applicant applied for a review of RNTPC’s decision. No written representation was submitted to support the review application;
- (e) departmental comments - comments from the relevant government departments were detailed in section 4 of the Paper. In particular:

- (i) the Director of Environmental Protection (DEP) maintained his previous view at the section 16 stage of not supporting the application as there were sensitive uses in the vicinity of the site (the closest residential dwelling being about 19m away) and environmental nuisance was expected;
- (ii) the Chief Town Planner / Urban Design and Landscape, PlanD (CTP/UD&L) maintained her view at the section 16 stage of objecting to the application from landscape planning perspective on the ground that the mature trees located on the southwest and southeast of the site might be affected by the proposed development and tree survey and landscape proposal were not provided to ascertain the impacts of the proposed development on the local landscape resources. Compared with the aerial photo dated 5.7.2011, a section of the vegetated area within the southern part of the site had been cleared. Approval of temporary warehouses would attract similar piecemeal temporary developments and jeopardize the integrity of the “GB” zone;
- (iii) the Director of Agriculture, Fisheries and Conservation (DAFC) indicated that the site was an existing paved land being occupied by temporary structures. However, a pond and a stream were found immediately adjacent to the site. Provided that no pond filling was required, he would have no strong view on the application from nature conservation point of view. Should the application be approved, the applicant should be advised to ensure that the proposed development would not cause disturbance or water pollution to the nearby pond and stream;
- (iv) the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) indicated that the lots within the site were

Old Scheduled Agricultural Lots held under the Block Government Lease under which no structures were allowed to be erected. No approval was given for the structure on the site;

- (v) the Commissioner for Transport indicated that the applicant should provide relevant traffic survey data to support the application and sufficient manoeuvring space should be provided within the site;
  - (vi) the Chief Highway Engineer/New Territories West, Highways Department commented that adequate drainage measures should be provided to prevent surface water running from the site to the nearby public roads and drains and that the Highways Department should not be responsible for the maintenance of any access connecting the site and the road near Deep Bay Road;
  - (vii) the Chief Engineer/Mainland North, Drainage Services Department (DSD) commented that there were no existing drainage/sewerage facilities maintained by them in the vicinity of the site and any drainage proposal involving discharging into the existing drains should have consents from DLO/YL, LandsD, the District Officer (Yuen Long) and relevant lot owners. No drainage proposal had been submitted. Nevertheless, there was no objection in principle to the proposed development and should the application be approved, relevant approval conditions should be imposed; and
  - (viii) other government departments maintained their previous views of having no adverse comment on or no objection to the application;
- (f) previous application - there was no previous application on the site;

- (g) similar applications - there was one similar application (No. A/YL-LFS/200) for temporary warehouse and open storage of recyclable goods (including electronic goods and scrap metals) in the same “GB” zone. The application was rejected by RNTPC on 29.1.2010 for reasons that the development was not in line with the planning intention of the “GB” zone; TPB PG-No. 10, “Town Planning Board Guidelines for Applications for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No.12B); and “Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” (TPB PG-No. 13E); as well as undesirable precedent effects;
  
- (h) public comments - three public comments were received during the statutory publication period at the section 17 stage and all of them objected to the application. They were submitted by Designing Hong Kong Limited, Kadoorie Farm & Botanic Garden Corporation and a member of the public. The commenters objected to the application mainly on grounds that the proposed use was incompatible with the “GB” zone; the proposal would generate adverse drainage, traffic, environmental, visual and ecological impacts; no impact assessments had been conducted; the proposed development, which was situated in the wetland buffer zone would affect the water-birds utilizing the ponds and the ecology of the Deep Bay area; and approval of the application would set an undesirable precedent; and
  
- (i) PlanD’s view - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 6 of the Paper, which were summarised below:

*Planning Intention of “GB” Zone*

- (i) the applied use was not in line with the planning intention of the “GB” zone which was to define 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;

*Town Planning Board Guidelines*

- (ii) according to TPB PG-No. 10, there was a general presumption against development within the “GB” zone, and new developments would only be considered in exceptional circumstances and must be justified with very strong planning grounds. The proposed development did not meet TPB PG-No. 10 in that the applicant did not submit drainage proposal and traffic data to demonstrate that the proposed development would not have adverse drainage and traffic impacts on the surrounding areas. CTP/UD&L also objected to the application from landscape planning perspective;
- (iii) according to TPB PG-No.12B, the site fell within the wetland buffer area (WBA), which was intended to protect the ecological integrity of the fishponds and wetlands within the Wetland Conservation Area and prevent development that would have a negative off-site disturbance impact on the ecological value of fishponds. Although the proposed temporary use within WBA was exempted from the requirement of ecological impact assessment as part of the submission, warehouse use could not be considered as complementary to the ecological functions of the wetlands and fishponds around the Deep Bay Area. DAFC maintained his concern on the stream and pond immediately adjacent to the site;

*Land Use Compatibility and Environmental Nuisance*

- (iv) the applied use was not compatible with the surrounding rural environments, nearby residential dwellings and the approved residential development (Planning Application No. A/YL-LFS/80-4) to the northwest of the site;
- (v) DEP did not support the application because there were sensitive uses in the vicinity of the site and environmental nuisance was expected;

*Precedent Effects*

- (vi) RNTPC rejected a similar application No. A/YL-LFS/200 in the same “GB” zone. Approval of the application, even on a temporary basis, would set an undesirable precedent for application for other warehouse or open storage developments within the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area. The areas to the southeast and southwest of the site were occupied by open storage yards which were suspected unauthorised developments; and
- (vii) there were three public comments received during the statutory publication period at the section 17 stage and all of them objected to the application.

[Mr Edwin H.W. Chan left the meeting at this point.]

91. The Chairman then invited the applicant’s representative to elaborate on the review application. Members noted that a letter from Tomizawa Company, including the main points of the presentation by the applicant’s representative, was tabled at the meeting.

92. Mr Ng Sai Wah made the following main points:

- (a) the structure had existed on the site since 1991 and it was previously used for storage of goods;
- (b) the goods being stored on site would not create adverse environmental impacts nor noise pollution. There would be no impact on the surrounding residents;
- (c) the warehouse use on the site would only generate two to three vehicle trips per day and it would not create adverse traffic impacts;
- (d) the pond adjacent to the site was owned by the applicant and they would not pollute their own properties. They would improve the landscaping around the pond and the pond would be used for rearing fish; and
- (e) the warehouse was not used as a residence and there would be no sewerage generated, but septic tank had been installed.

93. As the presentation was completed, the Chairman invited questions from Members. The Chairman asked DPO/TM&YLW whether the site was related to an unauthorized development and whether the structure on site already existed in 1991 as claimed by the applicant's representative. Mr C.C. Lau said that the site was related to an unauthorized development involving storage use and an enforcement notice was issued on 13.2.2014. According to the available information, there was a structure on the site in 1991 but it was a pig sty.

94. A Member asked what kind of sewage would be treated by the septic tank. Mr Ng Sai Wah said that there was no one living on the site and the septic tanks was only for filtering grey water with dirt or silts. The Member further asked whether forklifts were used on the site. In response, Mr Ng Sai Wah said that forklifts were not used on the site and only gas generated vehicles would be used on the site, if

needed, in future.

95. As the applicant's representative had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. The Board would further deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked DPO/TM&YLW and the applicant's representative for attending the meeting. They left the meeting at this point.

#### Deliberation

96. The Chairman asked Members to deliberate on the review application, taking account of the written submission and presentation at the hearing. Noting that the applicant had not provided new justifications to support the review, Members agreed to reject the application on review.

97. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection of the review application as stated in paragraph 7.1 of the Paper and considered that they were appropriate. The reasons were:

- “
- (a) the development is not in line with the planning intention of the “Green Belt” zone, which is to define 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 no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
  - (b) the development is not in line with the Town Planning Board Guidelines No. 10 for Application for Development within the Green Belt zone in that the development would

affect the existing natural landscape in the area and the applicant has not demonstrated that the proposed development would not have any adverse drainage and traffic impacts; and

- (c) approval of the application would set an undesirable precedent for similar open storage and warehouse use in the “GB” zone, the cumulative effect of which would result in a general degradation of the environment of the area.”

Procedural Matter

**Agenda Item 6**

[Open Meeting]

Submission of the Draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan No. S/K15/20A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance

(TPB Paper 9576)

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[This item was conducted in Cantonese]

98. As one of the proposed amendments was related to a site at Ko Chiu Road for subsidized housing development by the Housing Department, which was the executive arm of the Hong Kong Housing Authority (HKHA), the following Members had declared interests on this item:

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

Ms Julia M.K. Lau - being member of the Commercial properties Committee and Tender Committee of HKHA. She was also the director of a private company (family

		business) that sold an industrial building in Yau Tong in March 2010
Professor Edwin H.W. Chan	-	being member of the Building Committee of HKHA
Mr Dominic K.K. Lam	]	having business dealings with HKHA
Mr H.F. Leung	]	
Ms Janice W.M. Lai	]	
Mr K.K. Ling as Director of Planning	-	being member of the Strategic Planning Committee and the Building Committee of HKHA
Ms Bernadette H.H. Linn as Director of Lands	-	being member of HKHA
Miss Winnie M.W. Wong as Principal Assistant Secretary (Transport), Transport and Housing Bureau	-	being the representative of the Secretary for Transport and Housing who was a member of the Strategic Planning Committee of HKHA
Mr Eric K.S. Hui as Assistant Director, Home Affairs Department	-	being a representative of the Director of Home Affairs who was a member of the Strategic Planning Committee of HKHA

99. Members noted that Ms Julia M.K. Lau, Professor Edwin H.W. Chan, Miss Winnie M.W. Wong and Mr Eric K.S. Hui had left the meeting and Mr H.F. Leung had tendered an apology for not attending the meeting. As the item was procedural in nature, Members agreed that the other members who had declared interest could stay in the meeting.

100. The Secretary briefly introduced the Paper. On 16.8.2013, the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan (OZP) No. S/K15/20 was exhibited for public inspection under section 5 of the Ordinance. During the 2-month exhibition period, a total of 611 representations were received. On 25.10.2013, the representations were published for public comments for three weeks and one comment was received. On 24.1.2014, after giving consideration to the representations and comment, the Board noted 23 supporting/'no comment' representations and decided not to uphold the remaining representations and not to

propose any amendment to the draft OZP.

101. Since the representation consideration process had been completed, the draft OZP was ready for submission to the Chief Executive in Council (CE in C) for approval in accordance with section 8 of the Ordinance. For submission to the CE in C, opportunity had been taken to update the Explanatory Statement (ES) to reflect the latest position of the draft OZP and the latest developments in the area.

102. After deliberation, the Board:

- (a) agreed that the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP No. S/K15/20A at Annex I of the Paper and its Notes at Annex II of the Paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) endorsed the updated ES for the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP No. S/K15/20A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

### **Agenda Item 7**

[Closed Meeting]

103. This item was recorded under confidential cover.

**Agenda Item 2**

[Closed Meeting]

**Matters Arising**

104. The matters arising items were recorded under confidential cover.

**Agenda Item 8**

[Open Meeting]

**Any Other Business**

[The meeting was conducted in Cantonese.]

105. There being no other business, the meeting closed at 5:25pm.