

**Minutes of 1240th Meeting of the
Town Planning Board held on 5.3.2021**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Mr Lincoln L.H. Huang

Vice-chairperson

Mr Wilson Y.W. Fung

Mr Stephen L.H. Liu

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Dr Roger C.K. Chan

Dr Venus Y.H. Lun

Mr C.H. Tse

Dr Conrad T.C. Wong

Mr Y.S. Wong

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

Chief Engineer (Works), Home Affairs Department
Mr Gavin C.T. Tse

Assistant Director (Environmental Assessment)
Environmental Protection Department
Mr Terence S.W. Tsang

Director of Lands
Mr Andrew C.W. Lai

Director of Planning
Mr Ivan M.K. Chung

Deputy Director of Planning/District
Miss Fiona S.Y. Lung

Secretary

Absent with Apologies

Dr Lawrence K.C. Li

Dr Jeanne C.Y. Ng

Mr Ricky W.Y. Yu

In Attendance

Assistant Director of Planning/Board
Ms Lily Y.M. Yam

Chief Town Planner/Town Planning Board
Ms Caroline T.Y. Tang

Senior Town Planner/Town Planning Board
Ms Christine C.M. Cheung

Opening Remarks

1. The Chairperson said that the meeting would be conducted with video conferencing arrangement.

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1239th Meeting held on 19.2.2021

[The item was conducted in Cantonese.]

2. The draft minutes of the 1239th meeting held on 19.2.2021 were sent to Members on 5.3.2021. Subject to any proposed amendments by Members on or before 8.3.2021, the minutes would be confirmed.

[Post-meeting Note: The minutes, incorporating amendments to paragraph 65(c) proposed by a Member, were confirmed on 8.3.2021.]

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

- (i) New Town Planning Appeal Received

Town Planning Appeal No. 1 of 2021

Proposed House (New Territories Exempted House – Small House) in “Agriculture” and “Village Type Development” Zones, Lot 2964 S.B in D.D. 116, Kong Tau Tsuen, Yuen Long

Application No. A/YL-TT/477

3. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 18.2.2021 against the decision of the Town Planning Board (the Board) on 5.6.2020 to reject on review an application (No. A/YL-TT/477) for proposed house (New Territories Exempted House – Small House) at a site zoned “Agriculture” (“AGR”) and “Village Type Development” (“V”) on the approved Tai Tong Outline Zoning Plan No. S/YL-TT/16.

4. The review application was rejected by the Board for the following reasons:

- (a) the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Kong Tau Tsuen, Kong Tau San Tsuen, Nga Yiu Tau and Tong Tau Po Tsuen; and
- (b) approval of the application would set an undesirable precedent for similar applications in the subject “AGR” zone resulting in a general degradation of the rural agricultural character of the area.

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

(ii) Town Planning Appeal Decisions Received

Town Planning Appeal No. 6 of 2019

Proposed House (New Territories Exempted House (NTEH) – Small House) in “Residential (Group E)” and “Village Type Development” Zones, Lots 190 S.D RP and 190 S.E in D.D. 130, San Hing Tsuen, Lam Tei, Tuen Mun

Application No. A/TM-LTYT/362

Town Planning Appeal No. 7 of 2019

Proposed House (New Territories Exempted House – Small House) in “Residential (Group E)” Zone, Lots 190 S.D ss.2 and 190 S.Q in D.D.130, San Hing Tsuen, Lam Tei, Tuen Mun

Application No. A/TM-LTYT/363

6. The Secretary reported that the subject appeals were against the Town Planning Board (the Board)’s decisions to reject on review two applications (No. A/TM-LTYT/362 and 363) each for a proposed house (New Territories Exempted House – Small House) at two sites zoned “Village Type Development” (“V”) and/or “Residential (Group E)” on the Lam Tei and Yick Yuen Outline Zoning Plan.

7. The appeals were heard together by the Appeal Board Panel (Town Planning) (TPAB) on 3.11.2020. On 3.2.2021, the appeals were dismissed by the TPAB for the reason that land was still available within the “V” zone of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen where land was primarily intended for Small House development. It was considered more appropriate to concentrate Small House development close to the existing village cluster within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

8. Members noted the decisions of TPAB.

(iii) Abandonment of Town Planning Appeal

Town Planning Appeal No. 4 of 2020

Temporary Animal Boarding Establishment and Dog Training Facility for a Period of 3 Years in “Village Type Development” Zone, G/F, Lots 1216 RP (Part), 1217 S.B (Part) and 1217 S.A (Part) in D.D. 114, Sheung Tsuen, Kam Sheung Road, Yuen Long

Application No. A/YL-SK/273

9. The Secretary reported that an appeal had been abandoned by the appellant of his own accord. Town Planning Appeal No. 4/2020 was received by the Appeal Board Panel (Town Planning) (TPAB) on 7.8.2020 against the decision of the Town Planning Board on

22.5.2020 to reject on review an application for proposed temporary animal boarding establishment and dog training facility for a period of three years at a site zoned “Village Type Development” on the approved Shek Kong Outline Zoning Plan No. S/YL-SK/9.

10. The appeal was abandoned by the appellant on 18.2.2021. On 23.2.2021, the TPAB formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations of the Town Planning Ordinance.

11. Members noted the abandonment of the appeal.

(iv) Appeal Statistics

12. The Secretary reported that as at 1.3.2021, a total of 12 cases were yet to be heard by the Appeal Board Panel (Town Planning) and decisions of four appeals were outstanding. Details of the appeal statistics were as follows:

Allowed	36
Dismissed	166
Abandoned/Withdrawn/Invalid	204
Yet to be Heard	12
Decision Outstanding	4
<hr/> Total	<hr/> 422

Sai Kung and Islands District

Agenda Item 3

[Open meeting (Presentation and Question Sessions only)]

Section 12A Application No. Y/I-NEL/1

Application for Amendment to the Approved North-East Lantau Outline Zoning Plan No.

S/I-NEL/12, To rezone the application site from “Other Specified Uses” annotated

“Container Terminal”, “Other Specified Uses” annotated “Container Back-up Area” and

“Open Space” to “Other Specified Uses” annotated “Reserved for General Marine Functions

Uses”, Chok Ko Wan Lots 4 (Part) & 6 (Part), Lantau Island

(TPB Paper No. 10722)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

Ms Donna Y.P. Tam - District Planning Officer/Sai Kung & Islands
(DPO/SKIs), PlanD

Mr Richard Y.L. Siu - Senior Town Planner/Islands (STP/Is), PlanD

Mr Cyrus C.F. Chow - Town Planner/Islands, PlanD

Mr Fung Kam Lam - Applicant

Professor Mee Kam Ng] Applicant’s representatives

Mr Tse Sai Kit]

14. The Chairperson extended a welcome and explained the procedure of the application hearing. She then invited PlanD’s representatives to brief Members on the rezoning application.

15. With the aid of a PowerPoint presentation, Mr Richard Y.L. Siu, STP/Is, PlanD briefed Members on the applicant's proposal, departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10722 (the Paper).

16. The Chairperson then invited the applicant and his representatives to elaborate on the rezoning application.

17. With the aid of a PowerPoint presentation, Professor Mee Kam Ng, the applicant's representative, made the following main points:

- (a) she supported the subject rezoning application for preserving the marine function of the application site (the Site) by maintaining its status quo;
- (b) as shown in the Environment Bureau (ENB)'s "Hong Kong Climate Change Report 2015", global warming and rising sea level would accentuate the threat of storm surges in various parts of Hong Kong, including the Site. It was therefore important to develop strategies to cope with the risk from sea-level rise and to protect the inland developments. One of the examples was the Wallasea Wetlands Project in the United Kingdom which aimed to combat the threats from climate change and coastal flooding by recreating the wetland landscape of mudflats and saltmarshes, lagoons and pasture;
- (c) the European Union (EU) had recently put forth initiatives that all coastal EU Member States were required to prepare cross-sectoral maritime spatial plans by 2021. Marine spatial planning (MSP) provided a framework and consultative process to gain a better understanding of how marine areas were used and valued by different groups of people to facilitate informed planning and decision-making. There were many potential ecological/environmental, economic and social benefits from the adoption of MSP, such as identification of areas of biological or ecological importance, identification of compatible uses within the same area for development, and identification and improved protection of cultural heritage. EU suggested that the development and implementation of

MSP involved a number of steps, including identifying the need and the responsible authority, obtaining financial support, organising the process through pre-planning, organising stakeholder participation, defining and analysing existing conditions, defining and analysing future conditions, preparing and approving the spatial management plan, implementing and enforcing the spatial management plan, monitoring and evaluating performance, and adopting the marine spatial management process. It was important to engage stakeholders in MSP so that they could have a better understanding of the complexity of different issues in the process. The principal output of MSP was a comprehensive spatial management plan and the management measures to achieve specified objectives. A zoning plan was often included in the management plan. The main purposes of a zoning plan were to provide protection for biologically and ecologically important habitats, ecosystems, and ecological processes, separate conflicting human activities or combine compatible human activities, protect the natural values of the marine management area while allowing reasonable human uses of the area, allocate areas for reasonable human uses while minimising the effects of these human uses on each other and nature, and preserve some areas of the marine managed area in their natural state undisturbed by humans except for scientific or educational purposes; and

- (d) Hong Kong was not short of land. About 24% of land was built-up area, 47% country parks and conserved areas, and the remaining 29% non-built up area. There was a large area of undeveloped land in the New Territories, which could be used for future development. It was roughly estimated that more than 85% of land in the territory was owned by the Government. The Government should consider making better use of the land resources through strategic planning and leaving the sea intact.

18. With the aid of a PowerPoint presentation, Mr Tse Sai Kit, the applicant's representative, made the following main points:

- (a) he would like to respond to the comments made by relevant government departments as stated in the Paper;
- (b) the Site had been confirmed as not required for container terminal development under the Study on Hong Kong Port – Master Plan 2020 (HKP 2020 Study) and the Study on the Strategic Development Plan for Hong Kong Port 2030 (HKP 2030 Study). The existing zonings of “Other Specified Uses” annotated “Container Terminal” (“OU(CT)”) and “Other Specified Uses” annotated “Container Back-up Area” (“OU(CBA)”) could not reflect the current port development plan of Hong Kong. According to previous government studies, Southwest Tsing Yi was a preferred location for container terminal expansion and the potential site at North East Lantau had been given up. It was the duty of the Town Planning Board (the Board) to rectify the obsolete land use zonings in view of the changing planning circumstances. The long-term vision should be preserving the sea in view of the threat of climate change and for public use, which included but not limited to vessel traffic, fishing, navigation, recreational activities and scientific researches such as marine ecology and physical oceanography;
- (c) the Site was subject to the Deed of Restrictive Covenant (DRC) between the Government and Hong Kong International Theme Parks Limited. The Site fell within the “Height Control Zone” under the DRC and any building works in the Site would be subject to building height control. The proposed “Other Specified Uses” annotated “Reserved for General Marine Functions Uses” (“OU(RGMFU)”) would not violate the building height control under the DRC. The Lands Department should provide details of the DRC and explain whether the proposed rezoning would violate the DRC;
- (d) the Agriculture, Fisheries and Conservation Department (AFCD) stated that there was no known important habitat of Chinese White Dolphins and Finless Porpoises within the Site and the ecological value of the Site was limited. Without empirical evidence, however, drawing such a

conclusion would mislead the public. Hence, AFCD should explain the scope and data of the relevant researches. According to a survey conducted by Dr Samuel K.Y. Hung for AFCD on “Monitoring of Marine Mammals in Hong Kong Waters (2019-20)”, the most heavily utilised habitats of Finless Porpoises in 2019 were limited to the offshore waters at the juncture of South East Lantau and South West Lantau survey areas. Even though the waters near Shek Kwu Chau had been consistently identified as critical porpoise habitat in the past decade, the use of the waters by Finless Porpoises had sharply dropped to a very low level in two consecutive years of 2018 and 2019, which might be linked to the recent construction works of the Integrated Waste Management Facilities. Also, according to an underwater sound study conducted by World Wide Fund for Nature Hong Kong in 2019, Finless Porpoises had been recorded in the proposed reclamation area. Another report indicated that the average annual number of stranded Finless Porpoises was increasing from 11 per year in the late 1990s to 24 per year in the past decade. Since 2006, the total number of stranded Finless Porpoises reported in Hong Kong waters was 318. Putu Liza Mustika, a cetacean scientist from James Cook University in Australia, had advised that the stranding of a Finless Porpoise was a sign of mismanagement of our oceans;

- (e) AFCD stated that Bogadek’s Burrowing Lizard and nesting sites of White Bellied Sea Eagle were recorded on other outlying islands outside the Site. It was however noted that the recently revised List of Endangered and Protected Species of China had upgraded the White Bellied Sea Eagle to Protection Class I. According to the Hong Kong Bird Watching Society, White Bellied Sea Eagle had an estimated population of about 30 in Hong Kong. As they were sensitive to human disturbance during the breeding season, they often selected uninhabited coastlines or offshore islands for nesting and breeding. Hong Kong was an important breeding ground in Southern China, while the active nest at Sunshine Island was a recent discovery in the East Lantau waters. The proposed large scale reclamation works and the proposed road connection from Kennedy Town would cause great disturbance to the breeding and foraging grounds of

birds, which in turn would affect their breeding success and reduce their population in Hong Kong;

- (f) AFCD stated that not all countries needed to develop a national target for each and every global target of ocean protection. However, it was considered that there was a need to protect the marine and local biodiversity of Hong Kong. At present, only less than 3% of Hong Kong's waters were designated as marine reserves or marine parks. Even if the proposed South Lantau Marine Park and the marine park for compensating the Third Runway were included, Hong Kong's marine reserves and marine parks accounted for only about 5% of Hong Kong's sea area, which was far from the target of 10% of global ocean population of the United Nations' Convention on Biological Diversity. The Government should actively expand the protected waters of Hong Kong in the foreseeable future, and delineate the relevant waters as reserved areas through statutory plans;
- (g) AFCD stated that according to the Charts for Local Vessels (the Charts) published by the Marine Department (MD), part of the Site was of water depth of more than 6m below Chart Datum and might not be classified as wetland defined under Ramsar Convention as mentioned in a public comment. AFCD and MD should provide the Charts to show the water depth to ascertain whether that part of the Site was wetland; and
- (h) a total of 2,521 letters supporting the rezoning application had been collected. However, due to some technical problems, only 268 of them had been received by the Board's Secretariat. Some of the comments supported the rezoning application on the grounds that MSP was important to sustainable development in Hong Kong, large-scale reclamation would destroy the natural environment and the proposed zoning could serve as a buffer zone.

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

19. With the aid of a PowerPoint presentation, Mr Fung Kam Lam, the applicant, made

the following main points:

- (a) he was upset to note that some of the letters providing supporting comments were not received by the Board's Secretariat due to technical problems;
- (b) PlanD previously sought the agreement of the Rural and New Town Planning Committee (RNTPC) to defer the consideration of the subject application without prior communication with the applicant. The request for deferment was usually made by the applicant and PlanD would provide views on the request for the Board's consideration. For the request for deferment made by PlanD on the subject application, the applicant was not told how or whether a response to the request could be submitted for the consideration by the RNTPC. The Board should review the relevant procedure as set out in the Town Planning Board Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (the Ordinance) so that applicants could make response to the request for deferment made by PlanD;
- (c) the Site was zoned "OU(CT)" and "OU(CBA)" for future expansion of container port on the Outline Zoning Plan (OZP). The subject application was to rezone the Site to "OU(RGMFU)" with an intention to retain the general marine functions of the Site for public use with reference to the National Marine Functional Zoning (2011-2020) (the NMFZ) issued by the State Council. One of the basic principles of the NMFZ was to effectively strengthen marine environmental protection and ecological conservation, consider comprehensively marine environmental protection and land pollution prevention and control, prevent pollution discharge, improve the marine ecology, prevent marine environmental emergencies, and protect the marine ecosystem such as river estuary, sea bay, island and waterfront wetlands. According to the NMFZ, the "Reserved Zone" was to retain the reserved resources of the sea and to restrict development in the zone;

- (d) one of the comments made by AFCD on the subject application was that the Ramsar Convention was irrelevant to the context of land use planning. Contrary to that, the Convention should be taken into account in land use planning and the consideration of the Convention had been mentioned in one of the Town Planning Board Guidelines in relation to developments in Deep Bay Area. It was also doubtful whether AFCD's long-term annual monitoring of marine mammals had covered the area surrounding the Site. Regarding the protection of White Bellied Sea Eagle, the nesting site was under threat. The White Bellied Sea Eagle was of more conservation importance as its protection status in China had recently been upgraded from National Protection Class II to Class I. Protecting this species and their foraging area in Hong Kong became more imminent;
- (e) there was no adverse comment on the rezoning application from other relevant government departments. The rezoning application would not violate the DRC. It would not affect the marine function of the Site and there was no objection from the Director of Marine. Also, it would not have any adverse impact on the dense vegetation of Siu Kau Yi Chau;
- (f) prior to receiving the Paper, he had not obtained the comments from the Sustainable Lantau Office of Civil Engineering and Development Department (CEDD) and the Strategic Planning Section of PlanD, which had raised objection to/strong reservation on the rezoning application. It was questionable how the study of Kau Yi Chau Artificial Islands (the Study) and the finalisation of the Hong Kong 2030+ Study would be affected by the rezoning application; and
- (g) rezoning the Site as a reserved zone could effectively reflect the current status and existing uses of the Site and remove the obsolete land use zonings. It would not pre-empt the future use of the Site as the Government could still make amendments to the OZP with supporting justifications in future if required. As such, the Board's decision should not be affected by the objection raised by CEDD.

20. As the presentations of the representative from PlanD, the applicant and the applicant's representatives had been completed, the Chairperson invited questions from Members.

The Site

21. Some Members raised the following questions:

- (a) whether Kau Yi Chau and Siu Kau Yi Chau were both covered in the rezoning application;
- (b) any advice from AFCD on the ecological value of the Site;
- (c) whether AFCD had conducted any ecological survey covering the Central Waters;
- (d) whether there was any wetland as defined by the Ramsar Convention in the Site;
- (e) whether there were any findings from the previous studies which confirmed that reclamation was acceptable at the Site;
- (f) whether the future development on the Site would be subject to any height control imposed by the DRC;
- (g) the timing for rezoning a site when it was no longer required for a planned use; and
- (h) whether the applicant had submitted any technical assessments to support the application.

22. In response, Ms Donna Y.P. Tam, DPO/SKIs, PlanD made the following main points:

- (a) the rezoning application only covered the area of Siu Kau Yi Chau, but not Kau Yi Chau which was currently mainly zoned “Conservation Area” (“CA”) on the OZP;
- (b) regarding the ecological value of the Site, AFCD had already provided the relevant data and information for the Board’s consideration. When the East Lantau Metropolis (ELM) was proposed under the Hong Kong 2030+ Study, preliminary assessments on the ecological condition in the area had been conducted and some areas of ecological importance had been identified. Detailed technical assessments would be carried out to ascertain the feasibility of land use options proposed in the Study;
- (c) AFCD had conducted surveys on Chinese White Dolphins and Finless Porpoises for about two decades. Part of Central Waters (to the southeast of Disneyland) was once included in the survey. Chinese White Dolphins had been occasionally sighted but their occurrence diminished subsequently and no Finless Porpoises had been recorded in that area. In view of the low usage of the waters by both marine mammal species, the area was later excluded from the marine mammal monitoring programme undertaken by AFCD. Having said that, the future technical assessments including ecological impact assessment to be conducted under the Study would cover the water area near the Site, which would identify the areas, if any, to be conserved and recommend mitigation measures, as appropriate;
- (d) AFCD advised that wetlands, as defined by the Ramsar Convention, included a wide variety of inland habitats such as swamps and marshes, peatlands, rivers and lakes, and coastal areas such as mangroves, intertidal mudflats and also coral reefs and human-made sites such as fish ponds. The waters concerned might not be classified as wetland as defined under the Ramsar Convention;
- (e) the feasibility of port development in the area was confirmed by the previous studies in 1991. In view of the changing circumstances and

latest requirements, the Study would carry out a new round of technical feasibility studies and assessments to ascertain the extent of reclamation having due regard to, amongst others, the preservation of the environment and ecology in the area;

- (f) the DRC was an agreement between the Government and Hong Kong International Theme Parks Limited. The restrictions imposed by the DRC would be taken into account in the course of formulating the land use options in the context of the Study;
- (g) in general, a statutory plan would be amended to reflect the updated planning circumstances at an appropriate juncture. For the North-East Lantau OZP, the Northshore Lantau Development Feasibility Study commissioned in 1998 recommended that the land use proposals for North-East Lantau should be based on a tourism and recreation development theme and the sites for container terminals near Kau Yi Chau in the far south were retained to cater for the long-term port development. Subsequently, the Site was confirmed not required for container terminal development under the HKP 2020 Study in 2004 and HKP 2030 Study in 2014. The HKP 2030 Study concluded that the existing infrastructure could be augmented to meet the future demand forecasts up to 2030. Given that, relevant studies would need to be undertaken to determine the long-term plan for the area before appropriate zoning amendments/recommendations could be worked out and put forward to the Board for consideration; and
- (h) while the Ordinance had not stipulated any requirement on the submission of technical assessments in support of a s12A application, upon receipt of any such technical assessments submitted, relevant government departments would be consulted and their comments and advice would be provided for the Board's consideration. For the subject rezoning application, the applicant had not submitted any supporting technical assessments, such as the ecological value of the concerned area,

to substantiate his arguments and the intention of permanently prohibiting reclamation in the area.

23. In response to a Member's enquiry, Mr Fung Kam Lam, the applicant, said that the rezoning application was to eradicate the obsolete planned use of container terminal and container terminal back-up areas. He had no intention to apply for rezoning Kau Yi Chau which was currently mainly zoned "CA" on the OZP.

The Study to be commissioned by the Government

24. The Chairperson and some Members raised the following questions:

- (a) the scale of the proposed ELM;
- (b) whether the concerns on climate change and biodiversity would be covered in the Study;
- (c) how the approval of the rezoning application at the current stage would pre-empt the Study being an important strategic study to be carried out for the area; and
- (d) whether the existing sea area or the planned use of container terminal would be taken as a baseline condition in the Study.

25. In response, Ms Donna Y.P. Tam, DPO/SKIs, PlanD made the following main points:

- (a) the ELM proposed under the Hong Kong 2030+ involved reclamation near Kau Yi Chau, with a total reclaimed area of about 1,000 ha;
- (b) the concerns on climate change and related issues would be covered in the Study and the related technical assessments;
- (c) according to the applicant, the proposed rezoning was intended to retain the general marine functions of the Site for public use. Within the

proposed “OU(RGMFU)” zone, reclamation or development that involved large scale permanent decking over the sea, mining of marine resources and/or dredging of or damage to the seabed was prohibited. The applicant had not provided any information, technical assessments and studies in the submission to support the proposed rezoning. As the Site at present was mainly sea area and the marine functions governed under relevant laws and regulations were allowed, the applicant failed to provide information and strong justifications on the need to rezone the Site to “OU(RGMFU)”. Also, the Site was part of the Kau Yi Chau Artificial Islands under the Lantau Tomorrow Vision (LTV) and the sea area involved would be covered by the Study to ascertain its suitability for reclamation for development. The proposed zoning, if agreed, would prohibit reclamation in the vicinity of Kau Yi Chau and undermine the major land supply initiative under the LTV now under planning. As such, the approval of the rezoning application at the current stage would pre-empt the important strategic study and the related technical assessments to be carried out for the area; and

- (d) the existing sea area would be taken as a baseline condition in the Study.

26. The Chairperson supplemented that if the subject application was approved, the statutory plan-making process would commence before the completion of the Study and the associated technical assessments. This would effectively mean that a public debate on whether reclamation should be pursued for the area would be triggered, in the context of the plan-making process, before any findings of the Study were available. It was in this connection that the subject application was considered as pre-emptive, not that the application would prevent the Government from proceeding with the Study. The Government would carry out a strategic study to formulate a long-term plan for the area and to investigate the feasibility of reclamation with the support of various technical assessments. Upon completion of the Study with the relevant technical assessments and subject to recommendations made in the light of the Study, the Government would commence the plan-making process by recommending appropriate zoning amendments, supported with findings and justifications, to the Board for consideration. After consideration by the Board, the amendments to the OZP would be published for public inspection. The public could provide their views on the amendments by way of submitting

representations to the Board. Meanwhile, any reclamation works would be subject to the relevant laws and regulations, under which there would be established mechanisms to deal with the objections.

27. A Member enquired whether the applicant's representative had any information to prove that the Kau Yi Chau Artificial Islands was not feasible in view of the climate change. Professor Mee Kam Ng, the applicant's representative, responded that it had been clearly indicated in the ENB's "Hong Kong Climate Change Report 2015" that various part of Hong Kong, including the area near the Site, would be under the threat of increasing storm surges. It was therefore considered important to maintain the status quo of the Site. In view of the crisis of global warming and increasing sea level, she supported in principle the rezoning application.

28. A Member asked the applicant whether it would be more appropriate to apply for rezoning the Site when findings of the Study were available. Mr Fung Kam Lam, the applicant, said that the current rezoning application was only to rectify an obsolete planned use in accordance with the established mechanism, which could be done before the completion of the government study.

29. Noting from the applicant's representative that 85% of the land in Hong Kong was owned by the Government, a Member asked whether there was any information on the percentage of developable land. Ms Donna Y.P. Tam, DPO/SKIs, PlanD said that according to the Hong Kong 2030+ Study, more than 40% of the land in Hong Kong were in country parks and conservation area. Built-up area took up about 24% of the total land area. The remaining land area included, amongst others, agricultural land in the New Territories and sites subject to various development constraints. Under the multi-pronged approach to increase land supply, some of such remaining land had been included in New Development Areas for development. The Government had also conducted a review on the brownfield sites widely scattered in the territory and had so far shortlisted eight potential clusters suitable for public housing development in the short to medium term. Hong Kong would face a minimum long-term shortfall of at least 1,200 ha of land to meet the future development needs according to an assessment conducted under the Hong Kong 2030+ Study in 2016. Developing ELM was one of the eight land supply options recommended by the Task Force on Land Supply.

Marine Spatial Planning

30. Some Members raised the following questions:
- (a) the need to make reference to the NMFZ (2011-2020);
 - (b) whether there was any procedural mechanism for undertaking MSP in Hong Kong, and whether it was common for the Board to rezone a sea area with marine ecological value; and
 - (c) whether the Board had the authority to rezone the Site back to sea area if the designated use was no longer required.
31. In response, Ms Donna Y.P. Tam, DPO/SKIs, PlanD made the following main points:
- (a) Hong Kong was not covered in the NMFZ (2011-2020);
 - (b) MSP was not under the jurisdiction of the Board as OZPs normally covered land area only, with a few exceptions that covered coastal water areas. The management of sea areas was currently taken up by relevant government departments in accordance with their own ambits. For example, AFCD would designate sea area with marine ecological importance as marine parks or marine reserves. The Marine Department was responsible for designation and management of fairway and anchorage areas. There would be cases that OZPs would be prepared for sea area which was to be reclaimed for various proposed land uses after the feasibility of reclamation had been confirmed by the relevant studies; and
 - (c) the Board might consider excising the relevant part of the area from the OZP should the planned use be no longer required.
32. In response to a Member's enquiry on the difference between MSP and land spatial planning, Professor Mee Kam Ng, the applicant's representative, said that in 2017, about 66

countries had adopted MSP in their cities. Mainland China had also engaged in MSP for more than 30 years. MSP was an important means to coordinate the planning of land and sea, and identify the compatibility of different uses. To carry out MSP, there was a need to establish a responsible authority, obtain necessary resources and identify the vision and objective of MSP. Stakeholders should be involved in the process of MSP. There was not much difference between MSP and land spatial planning.

Procedural Matters

33. Two Members asked the reasons why the number of supporting public comments claimed by the applicant was different from that actually received by the Board's Secretariat. Ms Donna Y.P. Tam, DPO/SKIs, PlanD explained that the applicant claimed that 2,521 public comments had been submitted via email to the Board's Secretariat. However, according to the record of the Board's Secretariat, only 268 supporting public comments from or via SupportHK Environmental Petition Platform had been received during the statutory publication period. Having said that, the grounds of those comments not received by the Secretariat were similar to those received, which had been summarised and reflected in the Paper.

34. The Chairperson enquired about the ways that the public could make online comments. Ms Lily Y.M. Yam, Assistant Director/Board, said that the public could choose to submit their comments on applications online through the Board's website or by email to the Board's Secretariat.

35. Another Member asked the reasons for deferment of the consideration of the application and submitting the application to the full Board for consideration. Ms Donna Y.P. Tam, DPO/SKIs, PlanD explained that the consideration of the subject application was deferred for the reasons that the proposed rezoning involved policy and technical issues of various policy bureaux and departments, and the public comments received also involved a number of technical and policy issues, and additional time was required for the government bureaux and departments to consider the relevant issues and the public comments received. According to the Ordinance, the Board would consider all applications under sections 12A, 16 and 16A, and review its decisions on sections 16 and 16A applications under section 17 of the Ordinance. For efficient operation of the Board, two Planning Committees, namely, the Metro Planning Committee and the RNTPC were set up to take up duties delegated by the Board including the preparation of

statutory plans and consideration of planning applications. As the Site was of territorial significance and interests, it was considered more appropriate for the full Board to consider the application.

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

[Mr Alex T.H. Lai, Dr Frankie W.C. Yeung and Dr Conrad T.C. Wong left the meeting during the question and answer session.]

Deliberation Session

37. The Chairperson briefly recapitulated PlanD's reason for not supporting the application. The applicant had failed to provide information and justifications to support the proposed rezoning, which was intended not only to remove an obsolete use and to retain the existing marine functions, but also to prohibit the Site from reclamation. Approval of the application at the current stage would pre-empt the Study in that the statutory plan-making process would commence in a pre-mature stage before the completion of the Study and the associated technical assessments. Without any findings from the Study, the Board would not be in an informed position to handle the public debate on the proposed reclamation.

38. Members in general did not support the application and considered that the approval of the application would pre-empt the future government study. A Member said that the real intention of the application was to prohibit reclamation at the Site, which ran counter to the Study to be commissioned by the Government. The same Member considered that any proposal to forbid reclamation should be based on studies and scientific researches and not on a conceptual idea without any technical assessments. Another Member concurred and said that whilst the Site was no longer required for container terminal development as confirmed by the Government, no reclamation would be carried out for any development until the completion of the Study and

the statutory plan-making process. In that connection, the applicant failed to demonstrate the need to rezone the Site at this stage. Even if the Board had decided not to approve the application, there would be no adverse impact on the current marine functions of the Site. A Member said that it was doubtful whether it was legitimate for the Board to impose planning control to prohibit any reclamation at the Site as suggested by the applicant.

39. Members also considered that the applicant had not submitted sufficient information to justify the application. A Member further said that it was incumbent upon the applicant to put forward sufficient information and justifications to support the application. Such a requirement was consistent with the Board's practice in considering other applications. Two Members expressed concern that the mechanism of accepting flimsy rezoning applications not supported by relevant justifications and assessments could be abused by individuals who had no intention to secure approval, but only aimed to make use of the TPB mechanism as a platform in pursuit of their own cause.

40. In response to a Member's enquiry, the Chairperson said that the town planning system was open to any application that met the statutory requirements under the Ordinance and the Board was obliged to consider the applications in accordance with the Ordinance. The Secretary supplemented that there was currently no specific requirement under the relevant guidelines on the supplementary information to be submitted in support of an application. Should Members consider it appropriate, PlanD could review the relevant guidelines on providing guidance to applicants on submission of supplementary information for the Board's consideration.

41. The Vice-chairperson suggested that should the Board decide not to agree to the application, the rejection reason as recommended by PlanD should be suitably expanded to acknowledge that the zonings supporting container terminal use as shown on the current OZP were indeed outdated. Members agreed.

42. Members in general acknowledged the need to suitably protect the marine environment and ecology. Members also noted that all along, sites of ecological and conservation importance had been covered by conservation zonings on OZPs under the Ordinance to protect them from development and incompatible land uses. Members stressed that the Government, when undertaking the Study covering the Site, should give due regard to

the need for preserving the environment and ecology and to strike a proper balance between development and conservation.

43. Regarding the concept of MSP, some Members suggested that the Government should explore how MSP could be administrated by the relevant authorities. Two Members opined that MSP might involve the management of territorial marine resources and regional cooperation, which would have to be steered by a high level of the administration.

44. The Chairperson summed up the discussion that while Members had acknowledged that the zonings supporting container terminal use as shown on the current OZP were indeed outdated, they did not support the application for the reason as stated in the Paper. Having said that, Members had a high expectation on the Study to be commissioned by the Government and considered that due regard should be given to the protection of the marine environment and ecology in the area based on the findings and recommendations of the Study. In addition, regarding the concerns on MSP and management of the marine resources, the Board considered it worthwhile to explore the subject, which was more related to environmental protection and marine conservation, with the Environment Bureau. The meeting also noted that the Board's Secretariat would review the relevant guidelines on providing guidance to applicants on submission of supplementary information in support of applications for the Board's consideration.

[Messrs Thomas O.S. Ho and K.K. Cheung left the meeting during deliberation.]

45. After deliberation, the Board decided not to agree to the application for the following reason:

“while the Board acknowledges that the existing zonings supporting container terminal use for the Site are outdated, the applicant fails to provide information and justifications in the submission to support the proposed rezoning, and approval of the application at this stage will pre-empt an important study to be commissioned by the Government as part of a multi-pronged land supply strategy.”

[The meeting was adjourned for a 5-minute break.]

[Messrs Franklin Yu, Stanley T.S. Choi, Y.S. Wong and Andy S.H. Lam left the meeting during the break.]

Hong Kong District

Agenda Item 4

[Open Meeting]

Proposed Amendments to the Draft Kennedy Town & Mount Davis Outline Zoning Plan No. S/H1/20

(TPB Paper No. 10720)

[The item was conducted in Cantonese.]

46. The Secretary reported that one of the proposed amendments to the draft Kennedy Town & Mount Davis Outline Zoning Plan (OZP) No. S/H1/20 involved the University of Hong Kong (HKU) Residences at Pokfield Road. The following Members had declared interests on the item for owning property in the Kennedy Town & Mount Davis area or having affiliation/business dealings with HKU:

- | | |
|---------------------|--|
| Mr Wilson Y.W. Fung | - being the Chairman of the Accounting Advisory Board of School of Business, HKU; |
| Dr C.H. Hau | - being an Honorary Associate Professor and Principal Lecturer of HKU, and his spouse being a Principal Lecturer of HKU; |
| Mr K.K. Cheung | - his firm having current business dealings with HKU; |
| Mr Alex T.H. Lai | - his former firm having current business dealings with HKU; |
| Ms Lilian S.K. Law | - being the Adjunct Associate Professor of HKU; |

Professor John C.Y. Ng] being the Adjunct Professors of HKU;
Dr Conrad T.C. Wong]

Dr Roger C.K. Chan - being the Associate Professor of HKU; and

Dr Jeanne C.Y. Ng - owning a property in Kennedy Town.

47. Members noted that Dr Jeanne C.Y. Ng had tendered an apology for being unable to attend the meeting and Mr Alex T.H. Lai and Dr Conrad T.C. Wong had already left the meeting. As the amendments were proposed by the Planning Department (PlanD), the interests of Mr Wilson Y.W. Fung, Dr C.H. Hau, Mr K.K. Cheung, Ms Lilian S.K. Law, Professor John C.Y. Ng and Dr Roger C.K. Chan were considered indirect. Members agreed that they could participate in the discussion of the relevant amendment items.

Presentation and Question Sessions

48. The following representatives from PlanD were invited to the meeting:

Mr Louis K.H. Kau - District Planning Officer/Hong Kong (DPO/HK)

Mr Mann M.H. Chow - Senior Town Planner/Hong Kong (STP/HK)

49. The Chairperson invited PlanD's representatives to brief Members on the Paper.

50. With the aid of a PowerPoint presentation, Mr Mann M.H. Chow, STP/HK, PlanD briefed Members on the proposed amendments as detailed in TPB Paper No. 10720 (the Paper), including the background, the reassessment of relevant representation and comments on the OZP, the review on building height restrictions (BHRs) and building gap (BG) requirements, urban design and visual considerations and responses to the relevant representation and comments.

51. The Chairperson remarked that the proposed amendments to the draft OZP could be considered in two groups. The first group was the result of the review of the BHRs and BG requirements on the OZP taking into account the latest Sustainable Building Design Guidelines

(SBDG) requirements, so as to follow up the Court's judgment on the judicial reviews (JRs) against the subject and other OZPs. The second group was in relation to two rezoning sites at Mount Davis Road. She then invited questions from Members.

The Approach of the Current OZP Review

52. The Chairperson asked whether the review of the subject OZP was based on the same approach and assumptions adopted for other OZPs which were also subject to similar court decisions. Mr Louis K.H. Kau, DPO/HK, PlanD responded that the review of development restrictions imposed on the subject OZP was based on the same approach and assumptions adopted for the Wan Chai, Causeway Bay, Ngau Tau Kok and Kowloon Bay, and Mong Kok OZPs which had previously been considered by the Town Planning Board (the Board). Having considered the principles/concept of the current BHRs as well as the implications of the SBDG requirements and the updated working assumptions, the current BHRs for most of the sites could be maintained as they were able to accommodate the permissible gross floor area (GFA)/plot ratio (PR) either under the Building (Planning) Regulations or stipulated on the OZP for meeting the SBDG requirements upon redevelopment. Being constrained by the site levels, the current BHRs of four sites could not accommodate the permissible GFA/PR and meet the SBDG requirements and were therefore proposed to be relaxed. Regarding the BGs, the principle was that the incorporation of BGs at strategic locations on the OZP to maintain major air paths or create inter-connected air paths of district importance was still considered necessary. On the other hand, noting the alternative building design measures under the SBDG that could serve similar air ventilation purpose for the locality, if the effectiveness of a BG for wind penetration was localised and it might not be able to serve as a district air path, it would be recommended to be deleted.

53. A Member enquired whether there was any technical problem for future redevelopments near Kwun Lung Lau and whether provision of car park at basement level was assumed in the current OZP review. In response, Mr Louis K.H. Kau said that while a landslide had occurred in Kwun Lung Lau years ago, Kwun Lung Lau had been partially redeveloped into a high-rise development with a BH of about 160mPD. Regarding the assumption of basement car park, he explained that, similar to the review of the other OZPs, the estimation of the BHRs on the subject OZP was based on a set of development parameters and assumptions including provision of car park at basement level in accordance with the SBDG requirements, in which

only underground car park could be exempted from GFA calculation.

Building Gaps

54. A Member enquired the current proposal on BGs on the OZP. Mr Louis K.H. Kau said that two BGs of 12m wide above 29mPD and 60mPD (about 15m above ground level) were imposed on the western boundaries of Smithfield Terrace at 71-77 Smithfield and the south-western corner of Smithfield Garden at 50 Smithfield on the OZP. With the incorporation of the building setback under the SBDG, the section of Smithfield near the “Residential (Group A)” (“R(A)”) site at the junction of Pokfield Road and Smithfield would be widened, which originally was the bottleneck of the identified air path under southerly/south-easterly wind. That would facilitate penetration of the prevailing winds from Lung Fu Shan “valley corridor” into Forbes Street Temporary Playground and the urban area of Kennedy Town to the north. As the effectiveness of the two BGs for wind penetration was rather localised and there was an alternative air path, they were recommended to be deleted.

55. In response to another Member's enquiry, Mr Louis K.H. Kau said that the intention of imposing BGs was for better wind penetration in the area and it was considered not necessary to preserve the BGs for the reason of enhancing visual permeability.

The Amendment Site at Hillview Garden

56. A Member asked about the reasons for relaxing the BHR of the site of Hillview Garden from 60mPD to 120mPD. Mr Louis K.H. Kau responded that Hillview Garden was a housing development under the Civil Servants' Co-operative Building Society Scheme. A BHR of 60mPD was imposed on the site in 2011 to reflect its as-built condition and to be commensurate with the adjacent school premises. In the current review, taking into account the existing site level, the estimated BH requirement for a typical residential building in the “Residential (Group B)” (“R(B)”) zone and the SBDG requirements, it was proposed to relax the BHR of the site to 120mPD.

Two Proposed Rezoning Sites at Mount Davis Road

57. Noting that two sites at 2 and 6-10 Mount Davis Road were recommended to be

rezoned from “Residential (Group C) 2” (“R(C)2”) to “R(B)1” with a BHR of 160mPD, a Member asked whether the future redevelopments at the two concerned sites would protrude into the ridgeline. Mr Louis K.H. Kau explained that the proposed relaxation of BHR for the site at 2 Mount Davis Road would result in visual obstruction to part of the ridgeline of Mount Davis and would slightly reduce the visual permeability. However, the visual impact was considered small as the existing development had already protruded into the ridgeline. It was considered that allowing medium-rise development with a PR of 3 and a BHR of 160mPD on the site would not be visually incompatible with the surrounding developments as the proposed development parameters were the same as those of the adjacent “R(B)1” zone (i.e. 2A and 4 Mount Davis Road).

58. A Member asked whether there was any photomontage showing other viewpoint towards Mount Davis. Mr Louis K.H. Kau showed a photomontage of BH profile in Kennedy Town viewing from the major ferry route of the western gateway of Victoria Harbour and said that the high-rise developments in Kennedy Town almost screened off the developments subject to the proposed relaxation of BHRs including the two concerned sites.

59. The Chairperson enquired the reasons for the proposed relaxation of PR and BHR of the two concerned sites. Mr Louis K.H. Kau explained that in 2011, upon completion of the BH review, the two sites, which were originally zoned “R(B)” with no development restriction, were rezoned to “R(C)2” with the imposition of maximum PR of 0.75, site coverage (SC) of 25% and BH of 3 storeys, while 2A and 4 Mount Davis Road were rezoned to “R(B)1” with imposition of maximum PR of 3 and BH of 160mPD to reflect their as-built conditions and to maintain a low-rise BH profile and low development intensity along Mount Davis Road. The 12 commenters, which were the owners and residents of 2 and 6-10 Mount Davis Road, opposed the rezoning of the two sites from “R(B)” to “R(C)2” with imposition of PR, SC and BH restrictions. They were of the view that it was illogical and inequitable to have different PR and BH restrictions for their sites and the neighbouring sites at 2A and 4 Mount Davis Road given their proximity and similar site characteristics. They proposed to rezone the two sites to “R(B)1” with maximum PR of 3 and BH of 160mPD.

60. Mr Louis K.H. Kau added that, in the current OZP review, the BH profile of the neighbourhood was further revisited. The developments on the northern uphill side of Mount Davis Road were generally medium-rise in its built form and the two concerned “R(C)2” sites

were located along Mount Davis Road. The “R(B)1” site (i.e. 2A and 4 Mount Davis Road) in-between the two “R(C)2” sites consisted of medium-density developments. These sites formed a residential cluster on their own near the eastern end of the road. To the further west along the northern uphill side of Mount Davis Road, residential developments within the “R(B)1” and “R(C)” zones were predominantly medium-rise with varying PRs and BHs. On the southern downhill side of Mount Davis Road were generally low-rise and low-density residential developments. The BH profile was therefore stepped from low-rise developments along the southern downhill side of Mount Davis Road to predominantly medium-rise developments along the northern uphill side of the road. As such, allowing medium-rise developments with a PR of 3 and a BH of 160mPD on the two concerned sites, as proposed by the commenters, was considered acceptable. Hence, it was proposed to rezone the two “R(C)2” sites to “R(B)1” with maximum PR of 3 and BH of 160mPD. A BH of 160mPD was considered necessary to accommodate the PR of 3 given the existing site level.

61. In view of some Members’ concerns on the visual impact of the proposed development restrictions for two concerned sites, the Chairperson sought Members’ views on whether it was appropriate to proceed with Amendment Item E for exhibition under section 7 of the Town Planning Ordinance (the Ordinance) with a view to obtaining the public’s views or to defer a decision on Amendment Item E pending further review by PlanD on the appropriate development restrictions for the two concerned sites for the Board’s consideration. A Member pointed out that the principle of preserving the ridgeline had long been a factor that the Board would take into account when considering planning applications. As such, as a matter of consistency, the same principle should be applied in the current zoning amendments concerning the two sites. A Member concurred. Another Member considered that as the site level near the eastern end of Mount Davis Road was lower, there might be scope for adjusting the BHR of the two concerned sites. Noting that the Board’s previous decision on the two sites was challenged in the JRs, a Member remarked that it would be necessary for the Board to have a justifiable basis in tightening the BHR of the sites. Another Member opined that the BH profile of the nearby existing developments should also be a reference in setting the BHR.

62. After deliberation, the Town Planning Board (the Board) agreed that the proposed Amendment Items A, B, C, D, F1 and F2 to the draft Kennedy Town & Mount Davis Outline Zoning Plan (OZP) No. S/H1/20 as shown on the draft OZP No. S/H1/20A at Attachment B1 and its Notes at Attachment B2 were suitable for exhibition for public inspection under section

7 of the Town Planning Ordinance, while the Board decided to defer a decision on the proposed Amendment Item E pending further review by PlanD on the appropriate development restrictions for the two concerned sites for the Board's further consideration.

[Professor John C.Y. Ng left the meeting during the question and answer session.]

Agenda Item 5

[Open Meeting]

Any Other Business

63. There being no other business, the meeting was closed at 2:25 p.m.