

**Minutes of 1244<sup>th</sup> Meeting of the  
Town Planning Board held on 23.4.2021**

**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

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 Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Dr Jeanne 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

Chief Traffic Engineer (New Territories West)

Transport Department

Ms Carrie K.Y. Leung

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**

Mr K.K. Cheung

Dr Lawrence K.C. Li

Mr L.T. Kwok

Professor John 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 (a.m.)

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

Senior Town Planner/Town Planning Board

Ms Carmen S.Y. Chan (a.m.)

Mr Alex C.Y. Kiu (p.m.)

## **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 1243<sup>rd</sup> Meeting held on 9.4.2021**

[The item was conducted in Cantonese.]

2. The draft minutes of the 1243<sup>rd</sup> meeting held on 9.4.2021 were sent to Members on 23.4.2021. Subject to any proposed amendments by Members on or before 26.4.2021, the minutes would be confirmed.

[Post-meeting Note: The minutes were confirmed on 26.4.2021 without amendments.]

## **Agenda Item 2**

[Open Meeting]

### **Matters Arising**

[The item was conducted in Cantonese.]

3. The Secretary reported that there were no matters arising.

**Tuen Mun & Yuen Long West District**

**Agenda Item 3**

[Open meeting (Presentation and Question Sessions only)]

Review of Application No. A/TM-SKW/105

Proposed Public Utility Installation (Solar Energy System) in “Green Belt” Zone, Lot 37

in D.D. 383, So Kwun Wat Village, Tuen Mun

(TPB Paper No. 10732)

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[The item was conducted in Cantonese.]

**Presentation and Question Sessions**

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

***PlanD***

Mr Kepler S.Y. Yuen - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLW)

***Applicant***

Mr Kong Wai Keung - Applicant  
Mr Wong Wai Lun ]  
Mr Ma Man Chun ] Applicant’s representatives  
Mr Law Ka Hang ]

5. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD’s representative to brief Members on the review application.

6. With the aid of a PowerPoint presentation, Mr Kepler S.Y. Yuen, DPO/TM&YLW, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town

Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10732 (the Paper).

7. The Chairperson then invited the applicant and his representatives to elaborate on the review application.

8. Mr Wong Wai Lun, the applicant's representative, made the following main points:

- (a) he was a resident of So Kwun Wat Village;
- (b) the proposed installation of a solar energy system at the application site (the Site) was first initiated in 2019 by a family living in the village which was an advocate of environmental protection and supported the Environment Bureau's initiative in collaboration with CLP Power Hong Kong Limited (CLP) to promote the 'Renewal Energy Feed-in Tariff Scheme' (FiT Scheme). The family also made every effort to solicit villagers' support to the proposal;
- (c) the main objectives of the project were to support the Government's initiative and promote renewable energy to the next generations and save the Earth. After several rounds of discussion among the villagers, the proposal was widely supported by the village representative and villagers;
- (d) the project was mainly for conserving the environment rather than commercial interest. Having regard to the special circumstances of the case, CLP had agreed to carry out the necessary network reinforcement works for their participation in the FiT Scheme;
- (e) should the application be approved, site visits would be arranged for students so that they could have a chance to learn more about the solar energy system, which would bring benefits to the community; and

- (f) the Board was urged to consider whether the benefits of the project with education purpose in response to the Government's call for environmental protection and energy saving could outweigh the minimal visual or landscape impact on the surrounding environment.

9. Mr Law Ka Hang, the applicant's representative, made the following main points:

- (a) the installation of the solar panel system would not affect the existing vegetation at the Site and grass could still grow underneath the solar panels;  
and
- (b) a co-operative programme would be worked out with the adjacent goat farm so that the goats could be fed with the grass at the application site (the Site) and its surrounding areas. The landscape character of the area would not be adversely affected.

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

11. Some Members raised the following questions to the applicant and his representatives:

- (a) the efficiency of using solar panel to generate electricity, the electricity capacity, the amount of electricity per annum to be generated by the proposed solar energy system, and the estimated number of households that could be supported annually in terms of electricity consumption;
- (b) whether the carbon emission generated from the production of solar panel could be compensated;
- (c) comparison of carbon reduction resulting from the installation of the solar energy system and growing trees at the Site;

- (d) why additional electric cables were required to support the operation of the proposed solar energy system, and where the electricity generated would go;
- (e) whether the installation of the solar energy system would affect the vegetation at the Site;
- (f) the source of funding, and the payback period of the project;
- (g) the operation period of the proposed solar energy system;
- (h) the number of households in So Kwun Wat Village, and the reasons for not installing the solar panels at the roof top of each village house but pursuing the current proposal; and
- (i) whether other sites had been considered, and why the Site was considered suitable for the proposed installation.

12. In response, Messrs Wong Wai Lun, Law Ka Hang and Ma Man Chun, the applicant's representatives, made the following main points:

- (a) the life span of a solar panel was 30 years and its efficiency rate was about 15%. Taking a completed 40kW solar energy system in Tuen Mun as reference, it could generate 45,000 units of electricity annually. As the estimated capacity of the proposed solar energy system was 280kW, it could support about 760 households' electricity consumption annually;
- (b) the carbon emission generated from the production of a single solar panel could be offset by using the solar panel for about three years;
- (c) in general, the reduction in carbon emission by using a 1m<sup>2</sup> solar panel was equivalent to 2.8 trees;
- (d) the capacity of the existing electric cables could only sufficiently provide electricity to the existing residential units in So Kwun Wat Village. CLP



had agreed to install two pole-mounted transformers with 170kW each for laying of electric cables to facilitate the operation of the proposed solar energy system. The electricity generated by the solar energy system would feed directly into CLP's power grid for distribution;

- (e) the solar panel shade could increase the soil moisture and maintain the soil nutrients which would bring positive impact on the ecosystem. The solar panels would be arranged with gaps in between, which would allow sunlight penetration for grass growing underneath;
- (f) as the solar energy system would be owned by So Kwun Wat Village, it would be funded by the reserve fund of the village. The estimated cost of the project was about \$6 million and it was expected that the payback period was about 12 years;
- (g) upon completion of the FiT Scheme, i.e. by end of 2033, they would further negotiate with CLP on whether the electricity generated by the solar energy system could be supplied to the village for their own consumption;
- (h) there were about 600 households in So Kwun Wat Village. Individual villagers had attempted to join the FiT Scheme through installation of the solar panels at the roof top of their own village houses. However, most of the applications were rejected due to insufficient electric cables to support the installation. Up to now, only three applications (for three houses) out of 10 applications under the FiT Scheme were approved; and
- (i) no other sites in the area could be identified as suitable for installation of the solar energy system installation. As there was a need to construct a transformer room to support the system, many locations were considered not suitable due to fire safety concern. Besides, it was difficult to reach an agreement with private land owners. As far as the Site was concerned, it was owned by the Tso Tong of So Kwun Wat Village and consensus had been reached among the villagers. Moreover, the Site was easily accessible with existing roads and no site formation works was required.

Installation of solar panels in a larger area was not only more cost-effective but also easier for future management and maintenance. In addition, disturbance to the villagers could be minimised especially during the construction period. In view of the above, the Site was considered suitable for the proposed installation.

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

- (a) access to the Site, distance between the Site and the village settlement, and land uses in the surrounding areas;
- (b) whether there was any unauthorised development at the Site, and, if any, whether it was a 'destroy first, build later' case;
- (c) the assessment criteria for considering applications for solar photovoltaic (SPV) systems, and the major considerations of the current application; and
- (d) details of similar applications.

14. In response, Mr Kepler S.Y. Yuen, DPO/TM&YLW, made the following main points with the aid of some PowerPoint slides:

- (a) the Site could be accessed via a 3m wide local track to its south, which linked to So Kwun Wat Tsuen Road. The Site was about 400m away from the village settlement. The surrounding areas were rural in character with scattered vacant land set against green and vegetated land/hillslopes. Further to its west was a goat farm with sheds. To the northeast and southeast was some fallow agricultural land. To the further southeast was an open storage yard, where storage use was in existence before the gazettal of the first statutory plan of So Kwun Wat area in 1993. Further to its north was Tai Lam Country Park and MacLehose Trail Section No. 10 which was a popular trail to hikers;

- (b) part of the Site was previously subject to planning enforcement action against unauthorised development (UD) involving storage use. Enforcement Notice was issued in December 2019 requiring the discontinuance of the UD. The UD had been discontinued, which was not related to the current application for solar energy system. Therefore, it was not a “destroy first, build later’ case;
  
- (c) to facilitate consideration of applications for installation of SPV system under the FiT Scheme, a set of assessment criteria setting out the requirements with regard to technical feasibility, land use compatibility, environmental, landscape, visual and other impacts was approved by the Board on 3.7.2020 and promulgated on 21.7.2020. The assessment criteria had been circulated to concerned government departments for comment prior to submission to the Board for consideration. For application within “Green Belt” (“GB”) zone, criterion (j) in paragraph 6 of the assessment criteria was relevant. It was stated that “as there is a general presumption against development in the “GB” zone, planning application within the “GB” zone is normally not supported unless with strong justifications. It has to be demonstrated to the satisfaction of the relevant government departments that the SPV system would not adversely affect the landscape character/resources of the “GB” zone and jeopardise the integrity of the zone as a buffer.”; and
  
- (d) since the promulgation of the assessment criteria in July 2020, three similar applications for solar energy system within “GB” zone in other districts were considered by the Board/RNTPC. All of them were rejected mainly on the grounds of being not in line with the planning intention of the “GB” zones; being not in line with the Town Planning Guidelines No. 10; and failing to comply with the Assessment Criteria for Considering Applications for SPV System in that there were adverse comments from relevant government departments and the applicant had failed to demonstrate that the proposed use would not adversely affect the landscape character/resources of the “GB” zone. The rejection reasons were similar to those recommended under the current application.

[Dr Frankie W.C. Yeung joined the meeting during the question and answer session.]

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

#### Deliberation Session

16. The Chairperson remarked that a set of assessment criteria for considering applications for SPV system, which was approved by the Board, was promulgated in July 2020. It was stated clearly under criterion (j) therein that planning applications for such installations within the "GB" zone would not normally be supported unless with strong justifications. The criterion took into account the planning intention of "GB" zone for which there was a general presumption against development. Given that the Site was located within the "GB" zone and in close proximity to Tai Lam Country Park and MacLehose Section 10, Members were invited to consider whether there were any strong justifications in the current application to deviate from the said assessment criteria.

17. Noting that some Members were concerned about how the use of solar panels and tree planting would compare to each other in the effectiveness in reducing carbon emission, Mr Terence S.W. Tsang, Assistant Director (Environmental Assessment), Environmental Protection Department said that solar panels were more effective (about five times) than tree planting in terms of reduction in carbon emission. Mr Tsang also said that there were already some brownfield sites and agricultural activities in the surrounding areas and the proposed use would unlikely induce significant adverse visual impact or adversely affect the landscape character of the "GB" zone, in particular that the Site might not be visible to hikers.

18. Members, in general, did not support the application as the assessment criteria for considering applications for SPV system in "GB" zone should be adhered to. The applicant failed to demonstrate that the proposed solar energy system would not generate adverse impacts

on the surrounding environment and there was no strong planning justification in the submission for a departure from the planning intention of the “GB” zone. Although the applicant had good intention to promote environmental protection, approval of the application would set an undesirable precedent for similar applications within the “GB” zone, the cumulative effect of which would result in a general degradation of the natural environment and landscape quality of the “GB” zone. Even if the use of solar panels was an effective means to reduce carbon emission, the positive environmental impact of tree planting, such as enhancement of biodiversity, should not be undermined. Some Members opined that the relevant government department(s) could play a more proactive role to identify suitable sites for the installation of solar energy system in taking forward the Government’s initiative of promoting the use of renewable energy.

19. The Chairperson concluded that whilst noting that the installation of the solar energy system was a green measure worthy of support, Members generally did not support the application as the Site was located within the “GB” zone and there was no strong justification in the submission for a departure from the planning intention of the “GB” zone and the assessment criteria as promulgated, and the applicant failed to demonstrate that the proposed solar energy system would not generate adverse landscape and visual impacts on the surrounding environment. Notwithstanding the above, since developing renewable energy was an important initiative in the Government’s efforts in combating climate change, concerned government bureaux/departments might need to provide more guidance and assistance to the stakeholders to facilitate the installation of SPV system in suitable locations.

20. After deliberation, the Board decided to reject the application on review for the following reasons:

- “(a) the proposed development is not in line with the planning intention of the “Green Belt” (“GB”) zone, which is primarily intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention;

- (b) the proposed development is not in line with the Town Planning Board Guidelines No. 10 on Application for Development within the Green Belt Zone in that the applicant fails to demonstrate that the proposed system is essential, no alternative site is available for the proposed system, and there will be no adverse landscape and visual impacts on the surrounding areas and Tai Lam Country Park;
- (c) the proposed development does not fulfil the Assessment Criteria for Considering Applications for Solar Photovoltaic System in that the applicant fails to demonstrate that the proposed solar photovoltaic system would not adversely affect the landscape character of the “GB” zone; and
- (d) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications would result in a general degradation of the natural environment and landscape quality of the “GB” zone.”

### **Sai Kung & Islands District**

#### **Agenda Item 4**

[Open meeting (Presentation and Question Sessions only)]

Consideration of Further Representations Arising from the Consideration of Representations and Comments on the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/3 (TPB Paper No. 10733)

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[The item was conducted in Cantonese and English.]

21. The Secretary reported that representations, comments and/or further representation had been submitted by Ms Mary Mulvihill (R1/C59), the Hong Kong Countryside Foundation Limited (HKCF) (R2), Kadoorie Farm and Botanic Garden Corporation (KFBG) (R3), the Conservancy Association (CA) (R4/C54), Hong Kong Bird Watching Society (HKBWS) (R5/C55) and Master Mind Development Limited (Master Mind

Development) (F1) represented by Townland Consultants Limited (Townland). The following Members had declared interests on the item:

- Mr Lincoln L.H. Huang (Vice-chairperson) - his firm having past business dealings with HKCF;
- Mr K.K. Cheung - his firm having past business dealings with Townland, KFBG and CA, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Mr Alex T.H. Lai - his former firm having past business dealings with Townland, KFBG and CA, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Dr C.H. Hau - being an ordinary member of HKBWS, a life member of CA and an employee of the University of Hong Kong which was involved in a project with HKCF, and his spouse being the Vice Chairman of the Board of Directors of CA;
- Mr K.W. Leung - being a member of the executive committee of HKBWS and the chairman of the Crested Bulbul Club Committee of HKBWS; and
- Professor John C.Y. Ng - being a director of the Board of HKCF.

22. Members noted that Mr K.K. Cheung and Professor John C.Y. Ng had tendered apologies for being unable to attend the meeting. As Messrs Lincoln L.H. Huang, Alex T.H. Lai and K.W. Leung and Dr C.H. Hau had no involvement in the submissions of further representations, representations and/or comments, Members agreed that they could stay in the meeting.

## Presentation and Question Sessions

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

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

### ***Government Representatives***

#### **Planning Department (PlanD)**

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

Mr Matthew L.H. Tai - Assistant Town Planner/Sai Kung 3

#### **Agriculture, Fisheries and Conservation Department (AFCD)**

Miss K.Y. Ng - Nature Conservation Officer (Lantau)

Mr T.W. Mok - Nature Conservation Officer (Sai Kung)

### ***Further Representers, Representers, Commenters and their Representatives***

F1 - Master Mind Development Limited

F23 - Kwan Chung Wai

F24 - Kwok Sau Kuen

F42 - Cheung Suk Yee

F46 - Lam Ho Yan

F66 - Wu Jia Ling



*Townland Consultants Limited -*

Ms Keren Seddon ]  
Ms Cindy Tsang ] Further representers' representatives  
Mr Vincent Lau ]

F2 - Lau Pak On (劉伯安)

Mr Lau Pak On - Further representer

F52 - Lau Hang Yee

Ms Lau Hang Yee - Further representer

F82 - Nip Hin Ming

R3 - Kadoorie Farm and Botanic Garden

R10 - Gary William John Ades

R13 - Yip Tsz Lam

Mr Nip Hin Ming - Further representer and representers'  
representative

F83 - Woo Ming Chuan

F84 - Wong Suet Mei

R5/C55 - Hong Kong Bird Watching Society

Ms Wong Suet Mei - Further representer and  
representer/commenter/further  
representer's representative

F85 - Wong Wan Kei Samuel

F86 - Paul Zimmerman

R6 - Designing Hong Kong Limited

Mr Wong Wan Kei Samuel - Further representer and representer/further  
representers' representative

R1/C59 - Mary Mulvihill

C57 - Leung Hin Yan

C58 - Chan Ka Lam (陳嘉琳)

C60 - Fung Kam Lam

Ms Chan Ka Lam - Commenter and representer/commenters' representative

R2 - The Hong Kong Countryside Foundation

R14 - Ruy Barretto

Mr Roger Anthony Nissim - Representers' representative

R4/C54 - The Conservancy Association

Mr Ng Hei Man - Representer/commenter's representative

25. The Chairperson extended a welcome and briefly explained the procedures of the hearing. She said that PlanD's representative would be invited to brief Members on the background of the further representations. The further representers, representers, commenters and their representatives would then be invited to make oral submissions. To ensure the efficient operation of the meeting, each further representer, representer, commenter or their representative would be allotted 10 minutes for making oral submission. There was a timer device to alert the further representers, representers, commenters or their representatives two minutes before the allotted time was to expire, and when the allotted time limit was up. A question and answer (Q&A) session would be held after all attending further representers, representers, commenters or their representatives had completed their oral submissions. Members could direct their questions to the government representatives, further representers, representers, commenters or their representatives. After the Q&A session, the government representatives, further representers, representers, commenters and their representatives would be invited to leave the meeting, and the Town Planning Board (the Board) would deliberate on the further representations in their absence and inform the further representers, representers and commenters of the Board's decision in due course.

26. The Chairperson continued to say that the proposed amendment to the Pak Lap Outline Zoning Plan (OZP) after hearing the representations and comments involved the proposed amendment to rezone an area to the east of the village cluster at Pak Lap from "Village Type Development" ("V") to "Agriculture" ("AGR"), and requested the attendees to focus their oral submissions on the said amendment. She also thanked those attendees at the meeting who

had arranged the sequence of their oral presentations among themselves to facilitate the hearing process.

27. The Chairperson invited PlanD's representative to brief Members on the further representations.

28. With the aid of a PowerPoint presentation, Ms Donna Y.P. Tam, DPO/SKIs, PlanD briefed Members on the background of the further representations, including the background of the proposed amendment, the grounds/views/proposals of the further representers, planning assessments and PlanD's responses to the further representations as detailed in TPB Paper No. 10733 (the Paper).

[Mr Alex T.H. Lai left the meeting during PlanD's presentation.]

29. The Chairperson then invited the further representers, representers, commenters and their representatives to elaborate on their views on the proposed amendment.

F1 - Master Mind Development Limited

F23 - Kwan Chung Wai

F24 - Kwok Sau Kuen

F42 - Cheung Suk Yee

F46 - Lam Ho Yan

F66 - Wu Jia Ling

30. With the aid of a PowerPoint presentation, Mr Vincent Lau made the following main points:

- (a) objection was raised to the further amendment (Item A) to the draft Pak Lap Outline Zoning Plan (OZP) No. S/SK-PL/3 to partially meet some representations by rezoning an area to the east of the village cluster at Pak Lap from "V" to "AGR" as well as the related OZP amendment procedure;

*Planning History of the “V” Zone*

- (b) the “V” zone originally covered an area of 2.37 ha on the first draft Pak Lap OZP gazetted in 2013. Subsequently, the “V” zone was reduced to 0.98 ha and 0.95 ha in 2014 and 2020 respectively after two rounds of OZP amendment, and then further reduced to 0.5 ha in 2021 under the subject further amendment. Such a reduction of the “V” zone by about 80% would substantially affect the right and expectations of the indigenous villagers in respect of their small house (SH) development entitlement and the sustainable growth in Pak Lap;

*Reduction of the “V” Zone*

- (c) while PlanD’s review on the genuine need for SH development in Pak Lap had taken into account, inter alia, the actual number of SH applications and the 10-year SH demand forecast, the information presented to the Board so far was based on a snapshot in time and could not constitute a comprehensive review on the long-term genuine need for SH development, and as such, the Board’s decision on reducing the “V” zone was arbitrary and premature;
- (d) for Pak Lap, there were 118 male indigenous villagers aged 18 or above with 16 residing in Hong Kong and 102 residing overseas. However, the Board did not take into account the number of local and overseas male indigenous villagers who would apply for building a SH beyond the 10-year period and that the indigenous villagers had a right to apply for building a SH without time restriction and regardless of where they were currently residing;
- (e) the “V” zone as shown on the draft OZP No. S/SK-PL/3 was not excessive. As the vacant land within the original “V” zone had been cleared and was considered suitable for SH development, retaining the further representation site as “V” did not deviate from the principle of preserving country park enclaves (CPEs);

*Planning Procedure*

- (f) the further amendment extended beyond the scope of the ‘Initial Amendment Items’ (i.e. Items A and B) as shown on the OZP No. S/SK-PL/3. Such a material amendment should be subject to the full and proper plan-making process. The three-week further representation period was insufficient to allow proper submissions. As a matter of fairness, the further amendment should be allotted at least a two-month consultation period as proposed amendment to the OZP pursuant to s.7 of the Town Planning Ordinance. Any decision in respect of the further amendment, if ever reached, would be tainted with procedural irregularity;

*Planning Intention of the “AGR” Zone*

- (g) while the further representation site was proposed to be zoned “AGR”, PlanD considered that there was flexibility to allow SH development through planning permission or rezoning. It should, however, be noted that since 2010, 431 s.16 planning applications for proposed house/ SH development within the “AGR” zone were rejected by the Board mainly on the ground of being not in line with the planning intention, among others. As such, the “AGR” zone could not be relied on to meet the SH demand;

*History of Pak Lap Village*

- (h) the further amendment neglected the 300-year history of Pak Lap Village by curtailing its sustainable growth and ability to improve living standards. Indigenous villagers, who had a strong tie to the village, were in effect being discouraged from returning to their roots and home;

*Responses to Other Representers’ Concerns*

- (i) in response to some representers’ concern on the land ownership of the village and dispute on the SH policy, PlanD had already pointed out that land ownership should not be a material planning consideration in the designation of the land use zones as it might change over time;

- (j) regarding the concerns on sewage treatment and water quality, there was no strong evidence showing that SH development would generate adverse environmental and ecological impacts on the surrounding areas. The further representer (F1) also had a mission to undertake the repairing and restoration works for the village; and
- (k) the need to provide a buffer between the “V” zone and the stream within the village was unsubstantiated. There was an established approval mechanism for SH applications to ensure there would be no adverse environmental impact. There was no strong evidence showing that there were adverse environmental and ecological impacts as a result of village development as compared with agricultural use.

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

F2 - Lau Pak On

31. Mr Lau Pak On made the following main points:

- (a) he presented in his capacity as the village representative of Pak Lap Village; and
- (b) there were quite a number of indigenous villagers of Pak Lap though some of them were currently residing overseas. They might return to apply for SH development. Objection was thus raised to the reduction of the “V” zone.

R2 - The Hong Kong Countryside Foundation

R14 - Ruy Barretto

32. Mr Roger Anthony Nissim made the following main points:
- (a) there was a need to protect Pak Lap and rezone the area for non-building purposes. The rezoning of the area for agricultural or conservation purposes was supported;
  - (b) there was no SH demand not only in the past 10 years but also at the moment, and hence was a strong piece of evidence to reduce the “V” zone. Besides, the “V” zone should be used for SH development by indigenous villagers and not developers;
  - (c) since due consideration should be given to preservation of the CPEs, he doubted why the Biodiversity Strategic and Action Plan (BSAP) and Convention on Biological Diversity were not mentioned;
  - (d) it was disappointing that the response to the request for including Pak Lap into country park as stated in the Paper was that designation of country park was under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) which was outside the purview of the Board. It should be noted that in October 2020, the Court of Final Appeal quashed the Government’s decision not to include the six enclaves into country parks and Pak Lap was one of the six CPEs. Relevant authorities or government departments should consider including Pak Lap into country park; and
  - (e) country parks were the asset of Hong Kong people. The Government should consider the sustainability of country parks seriously and formulate a comprehensive plan for protecting them in the long run.

R1/C59 - Mary Mulvihill

C57 - Leung Hin Yan

C58 - Chan Ka Lam

C60 - Fung Kam Lam

33. With the aid of a PowerPoint presentation, Ms Chan Ka Lam made the following main points:

- (a) she was a member of the Sai Kung District Council and Pak Lap was within her constituency;
- (b) Pak Lap, which comprised a recognised village, was one of the CPEs in Hong Kong and needed to be protected. However, the area had become a leisure place with holiday houses for visitors recently;
- (c) arising from the judgment of a judicial review on three OZPs including the Pak Lap OZP, in designating “V” zone on the OZP covering CPEs, the major consideration should be whether there was genuine need of the indigenous villagers for SH development in the village. There was basically no change in the methodology adopted by PlanD in deriving the land required for “V” which relied mainly on the figures in the 10-year SH demand forecast provided by the Indigenous Inhabitant Representatives (IIRs) via the District Lands Office. However, the number of villagers eligible to apply for building SH in the next 10 years was unknown. As such, whether there was a genuine demand for SH development in Pak Lap was questionable;
- (d) one of the problems of Pak Lap was depopulation due to its remote location and poor accessibility, which was similar to other villages such as Tung Ah and Pak A Village at High Island in Sai Kung. As most of the villagers had moved to the urban area or resided overseas, only some elder villagers were living there. Villages located near some tourist spots might have attracted more visitors during holidays. To facilitate the development of those villages, more resources on infrastructure could be provided;



- (e) there were two approaches for promoting village revitalisation. One was to re-build the community and encourage more villagers to move back to the village while preserving the village culture and environment; and the other was to re-package the whole village with beautiful huts and create a pleasant and relaxing environment for visitors. The latter was common in Japan in which more active population was attracted to the village and participated in events in the village such that a better connection with one another and a social bond/community could be rebuilt; and
- (f) currently, Pak Lap provided some short-stay accommodation for visitors, which could not help preserve its 300-year village culture and natural environment. Some regulations should be put in place and appropriate enforcement actions should be taken in order to protect the CPE.

R4/C54 - The Conservancy Association

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

- (a) the reduction of the “V” zone in Pak Lap was supported;
- (b) it was considered appropriate to confine the “V” zone to the existing village cluster as there was no genuine need for SH development. According to information provided by the Lands Department and presented in TPB Paper No. 10634, there were only four outstanding SH applications under processing and the 10-year SH demand forecast was unknown. Since 2010, no SH application in Pak Lap was received, and only one application was rejected and one application was approved. The information revealed that the previous “V” zone which could accommodate 16 SHs was excessive;
- (c) as raised at the previous representation hearing, land ownership should be a relevant consideration in the designation of “V” zone. It was noted that nearly all the private land in the south-eastern part of the existing village

settlement was sold by the indigenous villagers to a single developer in 1993, 1994, 1996 and 2001. The IIR of Pak Lap Village had once publicly admitted to the media that the 10-year SH demand forecast was inflated. It was questionable whether the right of the indigenous villagers for SH development had been sold to the developer and whether there was still genuine need for SH development; and

- (d) in conclusion, the “V” zone should not be further expanded. It was proposed that the further representation site should be rezoned from “AGR” to “Green Belt (1)” or “Conservation Area” (“CA”) so that the area could be better preserved.

[Mr Stanley T.S. Choi left the meeting during Mr Ng’s presentation.]

F82 - Nip Hin Ming

R3 - Kadoorie Farm and Botanic Garden

R10 - Gary William John Ades

R13 - Yip Tsz Lam

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

*Importance of Protecting the CPEs*

- (a) as mentioned at the representation hearing, the CPEs, which formed part of the entire ecosystem extending from the country parks, were also part of the country park system. As CPEs provided habitats for many species with conservation importance, their ecological and conservation value could even be higher than many areas within the country parks. Human activities in CPEs would adversely affect the important habitats in the country parks and marine parks;

- (b) water pollution was the major concern of developments in Pak Lap which was adjacent to wetlands and/or important aquatic habitats. Some educational institutes had proposed to designate Pak Lap Wan as a marine protection area, marine park or marine reserve due to its extremely good water quality. Pak Lap Wan also provided a habitat for species of high conservation importance such as *Amphioxus* which was a Class II protected species in China;

*Sewage Treatment in "V" Zone*

- (c) many SHs relied on septic tank and soakaway (STS) system. The Government stated that there were established mechanisms exercised through the SH grant application system to ensure that the design and construction of STS system for SH developments would not entail unacceptable impacts on the surrounding environment. The design and construction of on-site STS should comply with relevant guidelines and requirements, e.g. the Environmental Protection Department (EPD)'s Professional Persons Environmental Consultative Committee Practice Note (ProPECC PN). However, the performance of the STS was in doubt due to the lack of regular checking and monitoring. STS was susceptible to operation and maintenance problems which could easily cause pollution to the environment and pose potential hazards to the villagers and nearby public;
- (d) it was mentioned in a leaflet of the Drainage Services Department that the number of septic tanks and quantity of sewage discharge continued to increase with the rise in the development of village houses. That gradually exceeded the natural purification capacity of the surrounding soil, causing environmental pollution and hygiene problems;
- (e) apart from the STS problem, natural streams adjacent to village house developments were susceptible to various threats due to illegal discharges. As mentioned by the EPD previously, illegal discharges could be completed in a few minutes. It was very difficult to collect evidence on spot, which caused difficulties in undertaking prosecution action. It was noted that the

increase in the number of SHs in Ma Wan New Village in Tung Chung had resulted in a sharp increase in the level of various pollutants in the nearby stream and the water quality of the stream was even worse than that of Shing Mun River;

*Concerns on Pak Lap*

- (f) various forms of devastation including vegetation clearance, excavation of land and construction of access road had been observed in Pak Lap area since 2009. Some of the affected areas were within the country park. The devastation continued even after the Development Permission Area Plan was put in force. The bank of a stream flowing across the area had been paved and the water quality was deteriorating in recent years;
- (g) according to the Notes of the OZP for the “V” zone, ‘House (New Territories Exempted House) (NTEH)’ was a Column 1 use which was always permitted. In addition, ‘Eating Place’ was also always permitted on the ground floor of a NTEH. Taking Tai Mei Tuk and Ma Wan New Village as examples, there were many restaurants located on the ground floor of the NTEHs. The discharge of untreated wastewater from those restaurants to the nearby streams/nullahs was undesirable;
- (h) Pak Lap Wan was located close to the “V” zone. If Pak Lap Wan was polluted due to illegal discharge, it would not only affect its beautiful scenery for public enjoyment but also the habitat for the valuable Amphioxus which required clear oceanic water combined with sand sediment with low organic context. It was quoted in an academic paper on Marine Living Fossils Report from AFCD’s website that the use of on-site STS systems to disperse untreated wastewater into the surrounding soil and the direct discharge of greywater into storm drains could lead to increased pollution. This would be applicable to the situation in Pak Lap Wan. In addition, development in Pak Lap would require excavation and result in exposure of the topsoil and underlying sediments, posing the risk of sediment discharge into Pak Lap Wan, which would smother the amphioxus communities;

- (i) as it was difficult to construct public sewer in Pak Lap, a riparian buffer was required to protect the natural stream. Taking the Tin Fu Tsai case as an example, the Water Supplies Department had advised that since Tin Fu Tsai was located within the upper direct water gathering ground of Tai Lam Chung Reservoir, any increase in the risk of water pollution due to new village type developments would not be acceptable. Under such circumstances, land use control would become an effective means to prevent water pollution;
  
- (j) there were many good precedents that the Board had designated areas along the streams with non-development zonings such as “GB” and “CA” so as to allow a buffer between the “V” zone and the stream even though it might not be an Ecologically Important Stream, e.g. Heung Yuen Wai Stream in Ta Kwu Ling North. The same approach was adopted when preparing the To Kwa Peng and Pak Tam Au OZP, Chek Keng OZP and Tung A and Pak A OZP; and

*Reduction of the “V” Zone*

- (k) at the previous representation hearing, the Board generally agreed that the size of the “V” zone in Pak Lap should be reduced and consideration should be given to providing a buffer area between the “V” zone and the stream. AFCD also advised that the current amendment at the further representation site would reduce the likelihood of further deterioration of the stream due to village development thereon. Their views on reducing the size of the “V” zone were supported. It was proposed that the riparian buffer should be zoned for conservation purposes in order to provide better protection to the stream.

[Dr Frankie W.C. Yeung left the meeting during Mr Nip’s presentation.]

36. The meeting was adjourned for lunch break at 1:00 p.m.

[Mr Franklin Yu left the meeting at this point.]

37. The meeting was resumed at 2:00 p.m.

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

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

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Dr C.H. Hau

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Dr Jeanne 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

Chief Traffic Engineer/New Territories West  
Transport Department  
Ms Carrie K.Y. Leung

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

**Sai Kung & Islands District**

**Agenda Item 4 (Continued)**

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Further Representations Arising from the Consideration of Representations and Comments on the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/3

(TPB Paper No. 10733)

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[The item was conducted in Cantonese and English.]

**Presentation and Question Sessions (Continued)**

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

***Government Representatives***

**Planning Department (PlanD)**

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

Mr Matthew L.H. Tai - Assistant Town Planner/Sai Kung 3

**Agriculture, Fisheries and Conservation Department (AFCD)**

Miss K.Y. Ng - Nature Conservation Officer (Lantau)

Mr T.W. Mok - Nature Conservation Officer (Sai Kung)

***Further Representers, Representers, Commenters and their Representatives***

F1 - Master Mind Development Limited

F23 - Kwan Chung Wai

F24 - Kwok Sau Kuen

F42 - Cheung Suk Yee



F46 - Lam Ho Yan

F66 - Wu Jia Ling

*Townland Consultants Limited -*

Ms Keren Seddon ]  
Ms Cindy Tsang ] Further representers' representatives  
Mr Vincent Lau ]

F82 - Nip Hin Ming

R3 - Kadoorie Farm and Botanic Garden

R10 - Gary William John Ades

R13 - Yip Tsz Lam

Mr Nip Hin Ming - Further representer and representer's  
representative

F83 - Woo Ming Chuan

F84 - Wong Suet Mei

R5/C55 - Hong Kong Bird Watching Society

Ms Woo Ming Chuan ] Further representer and  
Ms Wong Suet Mei ] representer/commenter/further  
representer's representatives

F85 - Wong Wan Kei Samuel

F86 - Paul Zimmerman

R6 - Designing Hong Kong Limited

Mr Wong Wan Kei Samuel - Further representer and representer/further  
representers' representative

R1/C59 - Mary Mulvihill

C57 - Leung Hin Yan

C58 - Chan Ka Lam (陳嘉琳)

C60 - Fung Kam Lam

Ms Chan Ka Lam - Commenter and representer/commenters'  
representative

R4/C54 - The Conservancy Association

Mr Ng Hei Man

- Representer/commenter's representative

40. The Chairperson welcomed and invited the further representers, representers, commenters and their representatives to elaborate on their submissions and encouraged them to stay for the question session.

F83 – Woo Ming Chuan

F84 – Wong Suet Mei

R5/C55 – Hong Kong Bird Watching Society (HKBWS)

41. With the aid of a PowerPoint presentation, Ms Wong Suet Mei made the following main points:

- (a) she was a Member of HKBWS, and would like to express concerns on the proposed “AGR” zoning for the further representation site (FR Site);
- (b) the Board’s decision to provide a buffer to the stream after considering the representations and comments at the last hearing was supported. However, the proposed “AGR” zoning was unsuitable for the FR Site. A plethora of non-agricultural uses, including SH, hobby farms and animal boarding establishments, might be permitted under the “AGR” zoning on application to the Board. SH and intensive recreational uses like barbeque spot, animal boarding establishment, etc. would pollute the stream. While not an EIS, the stream near the proposed “AGR” zone was considered ecologically sensitive because Pak Lap Wan where the stream discharged into was of very good water quality;
- (c) Pak Lap, a CPE, had not been put under proper protection. Back in 2015 when there was not as much human disturbance, cattle and Grade Two State protected species of *Anguilla marmorata* (花鰻鱺) and *Ceratopteris thalictroides* (水蕨) could still be found in the area zoned “AGR” (AGR

area) and the FR Site. However, the AGR area and FR Site had been filled and fenced off since 2015, and the aforesaid animals and plants could no longer be found. In 2020, the stream was converted into a drainage channel and the previously grassed western bank was paved with rubbles. Drainage outfalls on the western bank of the stream were directly discharging into the stream. In 2021, the AGR area had already been used as a camping ground;

- (d) aerial photographs of areas zoned “AGR” in other parts of the New Territories, like Kai Leng, Ho Chung, Man Uk Pin, Lam Tsuen, Kam Tin and Tai Kong Po revealed that over the years, wetland and active/fallow/abandoned agricultural land in those “AGR” zones were first destroyed through filling/vegetation clearance, turned into unauthorized carparks/open storage yards, and then approved for non-agricultural uses (temporary hobby farms, barbeque spots, caravan holiday camps, etc.) and even SH through planning applications. The example in Ho Chung was a suspected case of transfer of rights to build SH. These examples showed that areas zoned “AGR” were vulnerable to non-agricultural activities which might destroy the natural environment. The proposed “AGR” zoning for the FR Site would not provide sufficient protection/effective buffer to the stream in Pak Lap;
- (e) moreover, criterion (A)(c) of the ‘Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories’ (Interim Criteria) did not restrict SH development from encroaching into the “AGR” zone. Statistics over the period of 2003-2016 showed that 62% of planning applications for SH involving “AGR” zones were approved;
- (f) the statistics covering the period from 2014-2016 showed that 18 out of 27 planning applications for hobby farms, retail shops, caravan holiday camps and aquaculture were approved by the Board, and about 70% of those approved applications involved suspected ‘destroy first, build later’ activities; and

- (g) SH developments and non-agricultural activities requiring the use of septic tanks and/or filling of land would destroy the ecologically sensitive wetland/stream and lead to environmental degradation. To properly protect Pak Lap's ecology, the proposed "AGR" zoning of the FR Site should be replaced with either conservation zonings like "CA" or "GB(1)", or a more stringent "AGR(2)" zoning with 'House (New Territories Exempted House only)' and all non-agricultural uses removed from Columns 1 and 2, and filling of land should require planning permission.

[Miss Winnie W.M. Ng re-joined the meeting at this point.]

F85 – Wong Wan Kei Samuel

F86 – Paul Zimmerman

R6 – Designing Hong Kong Limited (DHKL)

42. With the aid of a PowerPoint presentation and a short video, Mr Wong Wan Kei Samuel made the following main points:

- (a) he spoke on behalf of DHKL;
- (b) although Pak Lap had been put under statutory planning control since the gazetting of DPA Plan in 2010, destruction of the area had never stopped;
- (c) the area covered by the Pak Lap OZP was integrated with and indistinguishable from the surrounding Country Park. The area was covered by lush natural vegetation and with some wetland areas. The adjoining beautiful beach of Pak Lap Wan was considered by many as Hong Kong's Maldives;
- (d) there was extensive vegetation clearance and partial filling of the Pak Lap area between 2009-2011. As road access to the area was restricted, excavators were brought into the area by barges via the adjoining beach;

- (e) in 2017, the area to the east of the stream as mentioned by those earlier at the hearing was largely barren land with a huge soil pile, though cattle were still seen grazing on the small patches of grassland. In 2020, the FR Site and the AGR area were completely fenced off and cattle were no longer seen in Pak Lap. Wooden platforms, seemingly for placing camping tents, and brick planters were placed/erected on the AGR area. The western bank of the stream was paved with rubbles, drainage outfalls were discharging into the stream, and a large stage with storage facilities were erected on the FR Site;
- (f) as recently observed in the week of the further representation hearing, numerous temporary structures, tents and various facilities (hand washing basins, toilets, changing rooms, bathing facilities, barbeque stoves, camp fire setups, storage facilities, etc.) were found within the AGR area and the FR Site. There were also lots of advertisements and photographs on the internet promoting the subject recreational development;
- (g) whilst the Planning Authority was enforcing the unauthorized toilets, changing rooms and bathing facilities, and investigating into the suspected unauthorized recreational use in Pak Lap, the said unauthorized recreational development stood a good chance of regularization judging from the high approval rate of recreational uses in “AGR” zones in other parts of the New Territories even when ‘destroy first, build later’ activities were involved. By rezoning the FR Site to “AGR”, the Board could be encouraging ‘destroy first, build later’ activities rather than deterring them as announced in its press release in 2011;
- (h) the Board’s intention to conserve the stream was also stated in the Paper. However, drainage outfalls on the western bank of the stream were seen discharging continuously into the stream from unidentifiable source(s). What was particularly worrying was the presence of a newly excavated open channel along the southern boundary of the AGR area that would discharge into the stream, and another suspected toilet/changing/bathing facility at the southeastern corner of the AGR area was connected to the open channel;

- (i) DHKL was most concerned about SH developments in the “AGR” zone. The majority of the land in Pak Lap was sold to a developer in the 1990s and villagers would need to buy back some land from the developer if they wished to apply for SH development;
- (j) in 2012-13, 11 SH redevelopments were approved within the “V” zone at the northeastern edge of Pak Lap. On a recent site visit, it was noted that there was no party wall between a row of 6 newly redeveloped SHs in the “V” zone and the common space therein was more like a hotel lobby than a place for residence. In light of such possible abuse, there was doubt on whether there was a genuine need for further SH developments in Pak Lap; and
- (k) Pak Lap was a CPE and DHKL proposed to conserve the area as a whole to avoid developments that would destroy its natural beauty. DHKL welcomed the proposed reduction of the “V” zone as potential pollution/destruction would be reduced. However, the “AGR” zoning could not provide sufficient control and protection to Pak Lap’s environment. DHKL proposed to either rezone the FR Site to conservation zonings of “CA” or “GB(1)”, or to review and limit the uses permitted under Columns 1 and 2 of the “AGR” zone.

43. As the presentations of PlanD’s representatives, further representers, representers, commenters and their representatives had been completed, the meeting proceeded to the Q&A session. The Chairperson explained that Members would raise questions and the Chairperson would invite the further representers, representers, commenters, and their representatives and/or the government representatives to answer the question. The Q&A session should not be taken as an occasion for the attendees to direct questions to the Board or for cross-examination between parties. The Chairperson then invited questions from Members.

## Planning Procedure

44. Some Members raised the following questions:

- (a) whether F1's grounds (as highlighted in paragraph 4.3.6 of the Paper) that the Board had taken a wrong procedural route in allowing only three weeks for the public to inspect and make further representations was valid and had affected the rights of F1 and the villagers to make further representations;
- (b) whether F1's argument that villagers were deprived of the right to make representations as the Proposed Amendment had extended beyond the scope of the 'Initial Amendment Items' was correct or not;
- (c) PlanD's views on F1's accusation that the Board's decision on reducing the "V" zone was arbitrary and premature as the Board had not conducted its own SH demand forecast nor reviewed the assumptions of the genuine need for SH development; and
- (d) whether F1 had submitted a representation to support the "V" zone when the subject draft OZP was gazetted under section 7 of the Ordinance as that was also part of the public consultation process for the OZP.

45. Ms Donna Y.P. Tam, DPO/SKIs, PlanD briefly recapitulated the planning history of Pak Lap as stated in paragraphs 1.1 to 2.6 of the Paper and made the following main points:

- (a) the Pak Lap OZP was remitted by the Court of First Instance (CFI) to the Board for reconsideration of the issue on the genuine need for SH development (the genuine need issue). To comply with the CFI's judgment, a review of the genuine need issue and the latest circumstances of Pak Lap were submitted to the Board for consideration in March 2020. Having considered the review and the latest circumstances, the Board agreed to rezone a small area to the south of the village cluster from "V" to "Government, Institution or Community (1)" ("G/IC(1)") and an area further south from "G/IC" to "CA". The draft OZP was exhibited for

public inspection under s.7 of the Ordinance in on 3.4.2020. The Board, upon hearing the representations and comments on 13.11.2020, decided to partially uphold 14 representations by proposing to reduce the “V” zone;

- (b) according to s.6B(8) of the Ordinance, upon consideration of any representation/comment, the Board should decide whether or not to propose amendments to the draft plan as proposed in the representation or in the manner that, in the opinion of the Board, would meet the representation. Any proposed amendments would be made available for public inspection for three weeks under s.6C(2) of the Ordinance;
- (c) as the Proposed Amendment was to partially meet some representations, publication under s.6C(2) as required under the Ordinance was procedurally proper. The grounds of F1 that the Proposed Amendments involved a more substantial reduction in the area zoned “V” and did not relate to the “G/IC” and “CA” zones under the Initial Amendment Items and should be published under s.7 of the Ordinance was not agreed to;
- (d) F1, the IIR of Pak Lap (F2) and the villagers had submitted further representations and were heard at the current meeting. Publication of the Proposed Amendment under s.6C(2) of the Ordinance did not affect their rights to be heard by the Board; and
- (e) the Board’s decision on 13.11.2020 was the result of a review on the genuine need issue and the “V” zone, and after consideration of representations and comments. The Board had taken into account the best and most up-to-date information available, including the updated/past figures on SH applications received/processed/rejected/approved starting from 2010 and the 10-year demand forecasts and its breakdown provided by the IIR obtained from LandsD, as well as a wide range of planning considerations other than SH demand. Accordingly, the Board’s decision to propose reducing the “V” zone was not arbitrary or premature as alleged by F1.



46. The Chairperson supplemented that the Proposed Amendment to reduce the “V” zone was to partially meet some representations submitted by green groups, which considered that the “V” zone was too large and that there was a need to provide a buffer from the stream. It was therefore procedurally proper to make the Proposed Amendment under s.6B(8) and publish it under s.6C(2) of the Ordinance.

47. Mr Vincent Lau, F1’s representative, advised that F1 and villagers of Pak Lap had not made any representation because the original “V” zone was not materially affected when the draft Pak Lap OZP No. S/SK-PL/3 was published on 3.4.2020. Ms Cindy Tsang, F1’s representative, clarified that F1 did not mean to say that publication of the Proposed Amendment under s.6C(2) of the Ordinance was procedurally improper. However, the three-week publication period was too short for proper consultation and preparation of further representations and that was unfair to F1 and the villagers. Mr Vincent Lau, F1’s representative, supplemented that the original representers and commenters should not be allowed to make further representations but he noted that such original representers/commenters were making presentations at the meeting as further representers.

48. Ms Donna Y.P. Tam, DPO/SKIs, PlanD clarified that only those representers and commenters whose representations were upheld by the Board were not allowed to make further representations. Other representers and commenters whose representations were not met by the Board could still make further representations.

#### Development Rights

49. Some Members raised the following questions:

- (a) elaboration on paragraph 4.3.4(b) of the Paper as to why the proposed “AGR” zoning for the FR Site would not affect the landowners’ rights under the lease; and
- (b) land ownership status in Pak Lap noting some further representers’ claim that most of the land in Pak Lap was under the ownership of a single developer.

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

- (a) the private lots at the FR Site were Old Scheduled Lots held under Block Government Lease demised for agricultural use. As 'agricultural use' was always permitted in the "AGR" zone, rezoning the FR Site from "V" to "AGR" would not not affect the rights under the lease; and
- (b) whilst there was no land ownership information in hand for all private land in Pak Lap, a major portion of the FR Site was owned by one single landowner. The remaining area was government land. Nevertheless, land ownership was not a relevant planning consideration in the review of the OZP.

#### The Stream in Pak Lap

51. The Chairperson, Vice-Chairperson and some Members raised the following questions:

- (a) whether the stream was an EIS;
- (b) whether the Government had a long-term sewage treatment plan for rural areas in the New Territories, and what the existing control on sewage discharge in rural areas was;
- (c) whether any SH development(s) had previously been disapproved by LandsD due to unsatisfactory percolation test for the proposed STS systems;
- (d) whether EPD would conduct site visits when providing comments on applications for SH developments;
- (e) whether the Government would consider other land use zonings to better protect the stream as proposed by some further representers, who considered that the proposed "AGR" zoning was not effective as a buffer for the stream; and

- (f) elaboration of the Ta Kwu Ling North example cited by F82 where a conservation zoning was proposed for the riparian zone of a non-EIS, and the reasons why the same should not be adopted in Pak Lap.

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

- (a) the stream was not an EIS;
- (b) the Government had a long-term plan to extend the coverage of public sewers to more remote villages, but it would take time to implement the plan due to the large number of remote villages involved. There was currently no plan to provide public sewer to Pak Lap due to its remoteness and geographical constraints and STS system was normally considered as an acceptable measure to treat sewage discharge from SH developments in the area provided that the location, design, construction and maintenance complied with concerned departments' guidelines, practice notes and requirements;
- (c) LandsD would circulate SH grant applications and any proposed STS system to concerned departments, including EPD, for comments. EPD would require the applicant to employ an authorised person (AP) to verify and certify that the location, design, percolation test, and construction of the STS system was in compliance with government requirements;
- (d) after consulting relevant government departments, the proposed "AGR" zone was considered to be a suitable buffer for the stream. Under the "AGR" zone, other than agriculture use that was always permitted, other developments including recreational uses would require the Board's planning permission and the applicants had to demonstrate to the Board that the applied use(s) would not generate adverse impact to the environment in the area, including the stream. Conditions requiring the applicant to comply with certain technical requirements might also be imposed upon granting planning approval;

- (e) PlanD would consult AFCD on the ecological conditions of an area and the existence of any plant, animal or habitat that required protection under conservation zonings when drawing up land use zones in statutory plans. Where there were streams, PlanD would also ask AFCD to advise whether they were EIS and the protection required for the riparian zone. AFCD would not normally require any buffer or conservation zoning for the riparian zone of non-EIS, as in the case of Pak Lap, though there were exceptions for other ecological reasons. Nevertheless, after considering the representations and comments, the Board decided that it was necessary to provide a buffer to protect the stream on the FR Site as it discharged into Pak Lap Wan which had very good water quality and the high ecological value of the surrounding Country Park. Considering also that there were only four outstanding SH applications, the Board decided to reduce the “V” zone and proposed to rezone the riparian area as “AGR”; and
- (f) the provision of a buffer area for the riparian zone of a non-EIS in Ta Kwu Ling North was proposed by the Board after consideration of representations and comments, and that buffer zone was proposed to be zoned “GB” as it was a natural vegetated area. On the other hand, the existing site conditions of the FR Site were different and did not justify a “GB” zoning.

53. Miss K.Y. Ng, Nature Conservation Officer (Lantau), AFCD supplemented that the non-EIS in Ta Kwu Ling North were mostly natural streams surrounded by natural habitats, and the Board agreed with the representers that the “GB” zoning was suitable for that area. In contrast, the stream in Pak Lap was partly converted into a man-made channel, and AFCD was of the view that the proposed “AGR” zoning was suitable for the FR Site.

54. At the request of the Chairperson, Mr Terence S.W. Tsang, Assistant Director (Environmental Assessment), EPD supplemented the following main points:

- (a) in the long run, the Government aimed to provide public sewers to more remote villages, but in the interim, the use of appropriately designed and maintained STS system was acceptable;

- (b) EPD would examine the feasibility of STS system proposed in individual SH applications. If no suitable location could be identified for the construction of a septic tank, EPD would raise objection to the SH application;
- (c) the location, size, design, distance of septic tanks to sensitive receivers and percolation test requirements were detailed in a ProPECC PN, and SH applicants were required to employ an AP to verify and certify compliance of the septic tank with requirements of the said ProPECC PN; and
- (d) for applications in areas with special environmental concerns, EPD staff might visit SH application sites to check the performance of the STS systems or assist in determining suitable location for the STS system.

#### The “Agriculture” Zoning

55. Some Members raised the following questions:

- (a) applicability of the Interim Criteria for assessing SH applications in the “AGR” zone; and
- (b) noting that the “AGR” zones were located within a CPE and adjoining the “CA” zones, whether AFCD had any concern on activities in or discharges from the “AGR” zones to prevent adverse impacts on the “CA” zones.

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

- (a) the Interim Criteria was used to assess planning applications for NTEH/SH developments in all land use zones. Under the Interim Criteria, SH and/or NTEH developments would be exempted from planning applications if relevant criteria were met. Criterion (A)(c) of the Interim Criteria quoted by Ms Wong Suet Mei (F83/F84/C55) stated that the exemption of NTEH/SH from planning permission was not applicable in some situations

e.g. when conservation zones were involved. The “AGR” zone, not being a conservation zone, was not listed in criterion (A)(c). However, it did not mean that the Interim Criteria was not applicable for assessing SH applications in “AGR” zone; and

- (b) farming activities would unlikely affect the “CA” zones which were currently woodland.

57. Miss K.Y. Ng, Nature Conservation Officer (Lantau), AFCD supplemented that there were existing guidelines and statutory controls on the registration of pesticides and guidelines on the proper use of fertilizer and pesticides for agriculture. The ecologically sensitive areas in Pak Lap that required better protection were already zoned “CA” on the OZP.

58. The Chairperson and Vice-Chairperson noted from the presentation of Ms Wong Suet Mei (F84) that the 62% approval rate of planning applications for SHs involving “AGR” zones were for the period of 2003-2016, which might not reflect the situation since 2015 when the Board adopted a more cautious approach in assessing applications for SH development outside the “V” zone. They enquired whether more up-to-date data was available.

59. In response, Ms Wong Suet Mei (F84) advised that there was no like-with-like information in hand, but the approval rate of all planning applications involving the “AGR” zone for the period of 2017-2019 was about 55%. About 56% of the 352 approved applications involving the “AGR” zone was for SH developments. There was a slight decrease in the number of approved SH applications involving “AGR” zones as compared to the period of 2014-2016. However, there were more approved applications for recreational uses in “AGR” zones, and the scale of some was quite large. That indicated that “AGR” zones were under fairly significant development pressure.

Current Uses in the Area

60. The Chairperson, Vice-Chairperson and some Members raised the following questions:

- (a) whether the current recreational uses like hobby farm and barbeque activities in Pak Lap, as shown on Plan FH-4b, were unauthorized developments (UDs);
- (b) whether hobby farming was defined by the percentage of the site that was covered by agricultural use; and
- (c) whether paving of the banks of the stream with rubbles would be a UD if the zoning was “AGR”, “CA” or “GB”;

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

- (a) an Enforcement Notice was issued on 4.1.2021 against the unauthorized toilets, and changing, bathing and storage facilities at the FR Site. The Planning Authority (PA) was currently investigating the suspected recreational uses like hobby farming, storage uses and barbeque activities at the FR Site and the adjoining AGR area. Depending on their nature, scale and mode of operation, and subject to collection of sufficient evidence, these recreational uses might be UD as defined under the Ordinance and subject to enforcement action by the PA;
- (b) there was no hard and fast rule on how to distinguish between agricultural use and hobby farming. Moreover, the Board did not have a definition for ‘hobby farm’, which was one of the uses subsumed under ‘Place of Recreation, Sports or Culture’. ‘Place of Recreation, Sports or Culture’ was a Column 2 use in the “AGR” zone. Any planning application would be considered by the Board on its individual merits;

- (c) according to the Board's Definition of Terms, 'filling of land' meant the depositing or placing of earth, gravel or any other substances on land, which resulted in an elevation of ground level. In other words, paving of the banks of a stream with rubbles was a form of land filling. While filling of land in the "AGR" zone required planning permission, filling of land within areas zoned "V" did not require planning permission;
- (d) as filling of land in "GB" and "CA" zones was subject to planning application, paving of the banks of a stream with rubbles under these zonings without obtaining planning permission would be a UD subject to planning enforcement; and
- (e) as a related issue, the illegal drainage outfalls found on the banks of the stream as mentioned by some further representers had been referred to EPD for follow-up action. EPD advised that no illegal effluent discharge to the stream, controllable under the Water Pollution Control Ordinance (Cap. 358), was detected during their site inspections. EPD would continue to monitor the situation.

62. Miss K.Y. Ng, Nature Conservation Officer (Lantau), AFCD supplemented that as observed during their site visit, there was no agricultural activity at the FR Site. That said, AFCD considered that the area possessed potential for agricultural rehabilitation as agricultural infrastructures such as footpath and water source were available.

63. Ms Keren Seddon, F1's representative said that a major portion of the FR Site was owned by F1. Villagers of Pak Lap worked with F1 to manage the area. F1 was willing to co-operate with the PA and the UD at the FR Site had already been removed. The storage facilities at the FR Site were for storage of agricultural equipment. The PA had inspected the storage facilities and had yet to decide whether they were UDs. F1 had also voluntarily cleaned up the area, including the beach, regularly.

64. Mr Tony Nip (F82) remarked that the stream was on government land, and LandsD would not normally authorize owners of nearby properties to pave the banks of a stream with rubbles.



65. A Member enquired whether there was any legislative framework to mandate or facilitate the rehabilitation of the FR Site for agricultural use if the proposed “AGR” zoning was agreed by the Board upon completion of the further hearing.

66. Ms Donna Y.P. Tam, DPO/SKIs, PlanD responded that uses at the FR Site not always permitted under both the relevant zonings in force at the time might be subject to enforcement action by the PA. However, the actual use of the FR Site would depend on the owner’s initiative. There was no means to force the owner to rehabilitate the FR Site for agricultural use.

67. The Chairperson noted the examples of polluting and ill-managed recreational uses in some parts of the New Territories cited by some further representers during the hearing. She would like to gauge the further representers’ views as to whether they were against recreational uses in CPEs like Pak Lap as a matter of principle, such that the area should be left only for passive activities or whether they would accept non-polluting and properly managed recreational uses that might be used by more members of the public.

68. Ms Woo Ming Chuan (F83) responded that Pak Lap was originally a seasonal wetland with Grade Two State protected plant and animal species. The area was now filled and its ecology was destroyed, and subsequently turned into a camping ground over the years. Therefore, one should not consider the acceptability or otherwise of recreational uses against the backdrop of the current destroyed state. Rather, it was a question of whether the area deserved a higher level of protection through conservation zonings based on its original ecological value as a CPE.

69. Ms Chan Ka Lam (C58) responded that however well managed the recreational uses on-site might be packaged, it was a ‘destroy first, build later’ activity in a CPE that should not be tolerated as a matter of principle. Pak Lap was different from say, Yuen Long Pat Heung where access from the urban areas was relatively easy. Pak Lap’s limited access could not accommodate the traffic generated by a large scale of recreational development. The Government had no plan to extend the public sewer to Pak Lap, either. All in all, Pak Lap simply could not accommodate a more intensive level of recreational development.

70. Mr Nip Hin Ming (F82) responded that Pak Lap was probably the first OZP that had gone through four hearings, progressively steering the planning controls under the OZP towards a conservation approach. The question raised on the acceptability of non-polluting and properly managed recreational uses was contrary to the previous decisions of the Board. There was no capacity in Pak Lap to accommodate more intensive development. Sewage treatment capacity was the limiting factor in Pak Lap because there was no public sewer. Taking Ma Wan New Village as an example, the handful of restaurants thereat were already enough to turn the water quality in the nearby drainage channel into a state worse than the Shing Mun River. Furthermore, Pak Lap was a CPE, and if recreational development were to be considered acceptable in Pak Lap, it would set an undesirable precedent for other CPEs which would be similarly destroyed. It was also common that well visited camping grounds would be abandoned and left to dilapidate when it lost favour among campers, and the operators would continue to exploit new locations for easy money. Pak Lap Wan had high conservation value, and any development that would worsen the water quality of Pak Lap Wan was not acceptable.

71. Ms Cindy Tsang, F1's representative, remarked that as the FR Site had been zoned "V" since 2013, the paving of the FR Site should not be regarded as a 'destroy first, build later' activity.

#### Other Aspects

72. Some Members raised the following questions:

- (a) the source of the 10-year SH demand forecast of 118 mentioned by F1;
- (b) locations of the four outstanding SH applications and areas available for SH development within the "V" zone;
- (c) elaboration of the total planned population of 230 in Pak Lap as stated in the Explanatory Statement (ES);
- (d) noting that the two "V" zones were surrounded by "CA" zones, whether there would be any restriction(s) on access for delivering construction

material/machinery and construction arrangement during the development of SHs; and

- (e) noting F1's emphasis on the long history of Pak Lap, whether there was any annual gathering or traditional cultural activities amongst Pak Lap villagers.

73. Mr Vincent Lau, F1's representative, responded that the 10-year SH demand forecast of 118 was provided by the IIR to LandsD in January 2020. Ms Keren Seddon, F1's representative, advised that there were normal social activities amongst the villagers but she had no information in hand about annual gathering or traditional cultural activities organized by villagers in Pak Lap. She said adopting a 10-year timeframe for reserving land for SH development was too short, and pointed out that there would be no land left in the "V" zones of Pak Lap for SH development after the four SH sites had been built. She appealed to the Board's consideration of at least allowing some reasonable growth of the village.

74. With the aid of some PowerPoint slides, Ms Donna Y.P. Tam, DPO/SKIs, PlanD made the following main points:

- (a) the 10-year SH demand forecast of 118 was provided by the IIR in January 2020 and was included as Annex C of TPB Paper No. 10624 presented to the Board for consideration on the review of the genuine need issue on 3.3.2020;
- (b) two of the outstanding SH applications were within the "G/IC(1)" zone while the remaining two were within the "CA" zone. Land available for SH developments was located at the northern end of the "V" zone on the western side of the stream; and in the western end of the "V" zone on the eastern side of the stream;
- (c) the planned population of Pak Lap indicated in the ES was calculated based on full development of the original "V" zones on the draft OZP, including the existing population within the village cluster and future population of the remaining "V" zone, including the FR Site. Based on the 0.95 ha of land zoned "V" on the draft OZP, the planned population of Pak Lap was

calculated to be about 230. If the Board agreed to rezone the FR Site to “AGR”, the planned population would be adjusted downward accordingly; and

- (d) Pak Lap was accessible via a footpath, with ramp, leading to Sai Kung Man Yee Road. Material/tool transportation to Pak Lap via that footpath was adequate for small scale developments like SHs.

75. As Members had no further questions to raise, the Chairperson said that the hearing procedures for the presentation and Q&A sessions had been completed. The Board would deliberate on the further representations in closed meeting and inform the further representers, representers and commenters of the Board’s decision in due course. The Chairperson thanked the further representers, representers, commenters, their representatives and government representatives for attending the meeting. They left the meeting at this point.

[Mr Stephen L.H. Liu, Miss Winnie W.M. Ng and Dr Roger C.K. Chan left the meeting during the Q&A session.]

#### Deliberation Session

76. The Chairperson invited Members to consider the Proposed Amendment based on the grounds and proposals of the further representations in the Paper and the views presented at the further hearing. She suggested Members to focus the discussion on (i) whether the “V” zone should be reduced; and (ii) if so, whether it was appropriate to zone the said area to be removed from the “V” zone, i.e. the FR Site, to “AGR”. The Chairperson also said that F1’s representative had clarified that they did not consider it legally improper for the Board to publish the Proposed Amendment under s.6C(2) of the Ordinance, and there was no issue of procedural impropriety.

#### The Proposed Amendment

77. The Chairperson then invited views from Members as to whether the “AGR” zoning for the FR Site was appropriate or not, and whether a more stringent conservation zoning was needed or justified. She said that those objecting to reduction of the “V” zone did not seem to

have put forward convincing reasons in their submissions and at the hearing to justify reversion of the further amendment proposed by the Board. She said that Members might consider whether the condition of the FR Site was similar to that of the existing “AGR” zone to the east of the stream. Regarding the Ta Kwu Ling North example of “GB” zoning for the riparian zone of a non-EIS, she said that Members might also consider the explanations from PlanD’s and AFCD’s representatives and decide whether the stream in Pak Lap was comparable to that in Ta Kwu Ling North.

78. After discussion, Members agreed to the reduction of the “V” zone (covering the FR site) as in the Proposed Amendment which had taken into account the genuine need for SH, the need to provide a buffer for the stream and the latest site circumstances. Moreover, the proposed “AGR” zoning for the FR Site was appropriate as its present state did not justify a conservation zoning.

#### ‘Destroy First, Build Later’ Approach

79. While agreeing to the Proposed Amendment, a Member expressed concern that the Government was not able to prevent the progressive destruction of the ecology of Pak Lap over the years, which had led to a ‘destroy first, build later, build later’ situation.

80. Mr Ivan M.K. Chung, the Director of Planning, responded that the Government started preparing a DPA Plan for Pak Lap in 2010 in view of the extensive excavation of land in the area. When the first OZP covering the area was published in 2013, the area to the east of the stream was zoned “V” as concerned departments considered that the ecological value of the area was not high enough to justify a conservation zoning. Subsequently, after the hearing of representations and comments on the OZP, the Board decided to meet some representations and rezoned the area to the east of the stream from “V” to “AGR”.

81. The Secretary supplemented that in the earlier days, the “V” zone in Pak Lap was drawn up having regard to both the number of outstanding SH applications and the 10-year SH demand forecast. Subsequently, the Board put more weight on the outstanding SH applications and hence, the “V” zone was progressively reduced over the years.

82. A Member expressed resentment over the ‘destroy first, build later’ approach, particularly in the case of Pak Lap which was originally of high ecological value. The Member opined that the Government should step up planning enforcement and send out a clear message to deter ‘destroy first, build later’ activities. Allowing more intensive levels of development after extensive devastation of an area was fundamentally wrong. Any future planning applications in Pak Lap should be assessed with caution taking account of the stream and the CPE background. The stream was in a very good condition with high value for conservation back in 2014, and the “AGR” buffer should be implemented without further delay. The Member also remarked that the “AGR” zoning for Old Schedule Lots demised for agricultural use was proper.

83. A Member cautioned against adopting a confrontational approach to conservation and said that more communication with the land owners might lead to a win-win situation. The Chairperson responded that the further hearing demonstrated that the Board had struck a balance between development and conservation. She also agreed that planning enforcement in Pak Lap should be stepped up, and the Board would carefully scrutinize the impact of planning applications on the “AGR” zones of Pak Lap considering its CPE background.

#### Proliferation of Non-Agricultural Uses in “AGR” Zones

84. A Member expressed concern on the many approvals granted for non-agricultural uses like hobby farm and animal boarding establishment in “AGR” zones in recent years. While agricultural use might not generate much economic return, if the Board continued to approve non-agricultural uses, including some which were large scale, there would be no incentive for land owners to lease out their “AGR” land for agricultural uses at lower rents. The Board might need to review its planning considerations when considering such applications in future.

85. The Chairperson responded that AFCD was currently undertaking a study to identify those genuinely good quality agricultural land and would encourage agricultural use thereon. When the study was completed, the Board might need to review the uses permissible under the “AGR” zoning for good quality agricultural land, and consider rezoning the remaining agricultural land of lower quality for other uses. Meanwhile, the Board would need to

continue to consider planning applications for non-agricultural uses in “AGR” zones based on their individual merits.

#### Other Matters

86. A Member asked whether it was necessary to spell out in the Notes/ES of the OZP the importance of the stream to the environment of Pak Lap notwithstanding that it was not an EIS.

87. In response, Mr Ivan M.K. Chung, the Director of Planning, advised that there were remarks under the “AGR” zone which stipulated that any diversion of streams would require the Board’s planning permission. When commenting on future planning applications in the “AGR” zone, concerned departments would also consider any impacts on the stream that might arise from the applied use. Therefore, Members’ concern on the stream could be adequately addressed through the planning application mechanism.

88. In response to a Member’s enquiry on whether the linking up of six SHs (with common corridors) mentioned by F85 was illegal or not, the Chairperson requested the Director of Lands to look into the matter.

89. The Chairperson recapitulated Members’ agreement that the OZP should be amended by the Proposed Amendment after consideration of the grounds and proposals of the further representations as detailed in the Paper and presented in the hearing.

90. After deliberation, the Board noted the supportive views of F83 to F86, and decided not to uphold F1 to F81 and the adverse views of F82 to F86, and considered that the draft Pak Lap Outline Zoning Plan (OZP) should be amended by the Proposed Amendment for the following reasons:

Genuine Need for Small House Development

- “ (a) to follow up the Court’s Judgment on the judicial review, a review on the genuine need for Small House development has been undertaken and the best available information has been provided to the Board for consideration, with which the Board has sufficiently acquainted (F1);

Reduction in the “Village Type Development” (“V”) Zone

- (b) the designation of the “V” zones is considered appropriate and a host of planning factors, including but not limited to the ‘village environs’, local topography, existing settlement pattern, number of approved and outstanding Small House applications, Small House demand forecast, availability of road access and infrastructure, areas of ecological and landscape importance, site specific characteristics, as well as the representations and comments on the draft OZP, have been taken into account. An incremental approach has been adopted for designating the “V” zone with an aim to confining Small House development to the existing village cluster to minimise adverse impact on the natural environment (F1 to F36);

Designation of the “Agriculture” (“AGR”) Zone

- (c) the designation of “AGR” zone on the OZP, including the Further Representation (FR) Site, is considered appropriate as such areas under this zoning possess a potential for agricultural rehabilitation. The proposed “AGR” zoning would not affect the permitted use of the land and the owner’s rights under the lease (F2 to F80);
- (d) there is sufficient control under the statutory planning regime over developments within the “AGR” zone. Development proposals requiring planning permission would be considered by the Board on their individual merits to ensure any potential impacts are properly mitigated. Conservation zonings, such as “Conservation Area”, “Green Belt (1)” or



“AGR(2)” for the FR Site are not justified from the nature conservation perspective (F81 to F86);

Provision of Buffer to the Existing Stream and Sewage Impact

- (e) having considered a host of planning considerations and the advice of expert departments, it is considered appropriate to rezone the FR Site from “V” to “AGR” for provision of a buffer to the stream (F1);
- (f) there are established mechanisms exercised through the Small House grant application system to ensure the design and construction of septic tank and soakaway systems for any developments would not entail unacceptable impacts on the surrounding environment (F85 and F86);

Planning Procedure

- (g) the procedures adopted by the Board in the making and publishing of the Proposed Amendment is considered legally and procedurally proper (F1);

Preservation of Country Park Enclave

- (h) the ecological value of Pak Lap and the surrounding areas is well recognised and has been duly considered by the Board during the previous hearing on the draft OZP (F83 to F85); and
- (i) designation of Country Park is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) which is outside the purview of the Board (F84).”

91. Members also agreed that the draft OZP (amended by the proposed amendment), together with their respective Notes and updated ES, were suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C).

92. The Board also noted that, in accordance with s.6H of the Ordinance, the OZP should thereafter be read as including the amendment. The amendment should be made available for public inspection until CE in C had made a decision in respect of the draft OZP in question under s.9 of the Ordinance.

[Dr C.H. Hau and Ms Jeanne C.Y. Ng left the meeting during the deliberation session.]

Fanling, Sheung Shui & Yuen Long East District

### **Agenda Item 5**

[Open Meeting]

Request for Deferment of Review of Application No. A/YL-NTM/399

Proposed Public Utility Installation (Solar Photovoltaic System) in “Green Belt” Zone, Lots 978 (Part), 979 (Part), 1043 and 1047 in D.D. 102, Siu Hum Tsuen, San Tin, Yuen Long (TPB Paper No. 10735)

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[The item will be conducted in Cantonese.]

93. The Secretary reported that the applicant requested on 13.4.2021 deferment of consideration of the review application for two months in order to allow time for the applicant to arrange a site meeting with CLP Power Hong Kong Limited (CLP) and prepare further information. This was the third request for deferment of the review application.

94. After deliberation, the Town Planning Board (the Board) decided to defer a decision on the review application as requested by the applicant pending the submission of further information from the applicant. The Board agreed that the review application should be submitted for its consideration within three months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board’s consideration. The Board also agreed to advise the applicant that two months were allowed for preparation of the submission of further information. Since it was the third deferment and a total of six months had been allowed for

preparation of the submission of further information, no further deferment would be granted unless under very special circumstances.

### **Procedural Matters**

#### **Agenda Item 6**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Ma On Shan Outline Zoning Plan No. S/MOS/23

(TPB Paper No. 10734)

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[The item will be conducted in Cantonese.]

95. The Secretary reported that amendment items A, B1 and D involved public housing developments by the Hong Kong Housing Authority (HKHA) and the Housing Department (HD) was the executive arm of HKHA. The Engineering Feasibility Study (EFS) for the aforesaid amendment items was conducted by the Civil Engineering and Development Department (CEDD) with Black & Veatch Hong Kong Limited (B&V), MVA Hong Kong Limited (MVA) and Urbis Limited (Urbis) as the study consultants. Representations and comments had been submitted by Kadoorie Farm and Botanic Garden Corporation (KFBG) (R44), World Wide Fund For Nature Hong Kong (WWF-HK) (R46), Hong Kong Bird Watching Society (HKBWS) (R47/C3), the Conservancy Association (CA) (R49/C5), Centre for Community and Place Governance, Institute of Future Cities (IOFC), Chinese University of Hong Kong (CUHK) (R52) and Ms Mary Mulvihll (R92/C16). The following Members had declared interests on the item:

Dr Lawrence W.C. Poon - renting a property in Ma On Shan; his spouse being an employee of HD but not involved in planning work, and owning a residential unit in Ma On Shan;

- Mr K.K. Cheung - his firm having current business dealings with HKHA and B&V, past business dealings with KFBG and CA, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Mr Alex H.T. Lai - his former firm having current business dealings with HKHA and B&V, past business dealings with KFBG and CA, and hiring Ms Mary Mulvihill on a contract basis from time to time;
- Dr C.H. Hau - conducting contract research projects with CEDD, being a member of HKBWS and a life member of CA, a former member of the Conservation Advisory Committee of WWF HK, and his spouse being the Vice Chairman of the Board of Directors of CA;
- Mr Thomas O.S. Ho - having current business dealings with HKHA, MVA and Urbis;
- Mr Franklin Yu - being a member of the Building Committee of HKHA and his firm having current business dealings with CUHK;
- Mr L.T. Kwok - his serving organisation operating a social service team which was supported by HKHA and openly bid funding from HKHA;
- Mr Daniel K.S. Lau - being a member and an ex-employee of Hong Kong Housing Society which had discussed with HD on housing development issues;

- Mr K.W. Leung - being a member of the executive committee of HKBWS and the Chairman of the Crested Bulbul Club Committee of HKBWS;
- Professor John C.Y. Ng - being a Fellow of IOFC, CUHK;
- Dr Conrad T.C. Wong - having current business dealings with HKHA;
- Mr Y.S. Wong - being a member of the Funds Management Sub-Committee of the HKHA;
- Mr Andrew Lai - being a member of HKHA; and  
(as Director of Lands)
- Mr Gavin C.T. Tse - being a representative of the Director of Home  
(as Chief Engineer (Works), Affairs who was a member of the Strategic  
Home Affairs Department) Planning Committee and Subsidized Housing  
Committee of HKHA.

96. As the item was procedural in nature, Members agreed that the above Members who had declared interests could stay in the meeting. Members noted that Messrs K. K. Cheung and L.T. Kwok, and Professor John C.Y. Ng had tendered apologies for not being able to attend the meeting, and Dr C.H. Hau, Messrs Thomas O.S. Ho, Alex T.H. Lai and Franklin Yu had already left the meeting.

97. The Secretary briefly introduced the TPB Paper No. 10734. On 16.10.2020, the draft Ma On Shan Outline Zoning Plan No. S/MOS/23 (the OZP) was exhibited for public inspection under s.5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 7,658 representations were received (after discounting 100 duplicated representations/multiple submissions by the same representers). There were 1,959 representations made with identity information missing which should be considered as invalid. Thus, the number of valid representations was 5,699. There were two out-of-time representations received after the exhibition period, which should be treated as not having been made.

98. The valid representations were published for three weeks and 1,713 comments were received (after discounting 76 duplicated comments/multiple submissions by the same commenters). There were 126 comments made with identity information missing which should be considered as invalid. Thus, the number of valid comments was 1,587. There was an out-of-time comment received after the public inspection period, which should be treated as not having been made.

99. Since the amendments incorporated in the draft OZP had attracted much public interest, it was recommended that the representations and comments should be considered by the full Board. Separate hearing sessions might be arranged, if necessary. In view of the similar nature of the representations and comments, the hearing of the representations and comments was recommended to be considered collectively in one group.

100. To ensure efficiency of the hearing, a maximum of 10 minutes presentation time would be allotted to each representer and commenter in the hearing session. Consideration of the representations and comments by the full Board was tentatively scheduled for July 2021.

101. After deliberation, the Board noted that the 1,959 representations and 126 comments with the required identity information missing should be treated as invalid; the two out-of-time representations and the one out-of-time comment received after the exhibition/public inspection period respectively should be treated as not having been made; and agreed that:

- (a) the valid representations/comments should be considered collectively in one group by the Board itself; and
- (b) a 10-minute presentation time would be allotted to each representer/commenter.

**Agenda Item 7**

[Open Meeting]

Any Other Business

102.        There being no other business, the meeting was closed at 4:50 p.m.