

**Minutes of 1292nd Meeting of the
Town Planning Board held at 2:30 p.m. on 28.4.2023**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Doris P.L. Ho

Chairperson

Mr Wilson Y.W. Fung

Mr Stephen L.H. Liu

Dr C.H. Hau

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

Professor Roger C.K. Chan

Dr Venus Y.H. Lun

Dr Conrad T.C. Wong

Mr Ben S.S. Lui

Mr Timothy K.W. Ma

Ms Bernadette W.S. Tsui

Mr K.L. Wong

Chief Engineer/Traffic Survey & Support
Transport Department
Mr Patrick K.P. Cheng

Chief Engineer (Works)
Home Affairs Department
Mr Paul Y.K. Au

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
Mr C.K. Yip

Secretary

Absent with Apologies

Mr Lincoln L.H. Huang

Vice-chairperson

Mr Daniel K.S. Lau

Mrs Vivian K.F. Cheung

Mr Vincent K.Y. Ho

In Attendance

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

Chief Town Planner/Town Planning Board
Ms Johanna W.Y. Cheng

Senior Town Planner/Town Planning Board
Ms Kitty S.T. Lam

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1291st Meeting held on 14.4.2023

[The item was conducted in Cantonese.]

1. The draft minutes of the 1291st meeting held on 14.4.2023 were confirmed without amendment.

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

2. 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/YL-LFS/448

Proposed Filling of Pond for Permitted Agricultural Use (Fish Pond Culture) in “Conservation Area” Zone, Lot 1 S.L RP (Part) in D.D. 126, Lau Fau Shan, Yuen Long
(TPB Paper No. 10891)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

PlanD's representative

Mr Raymond H.F. Au - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLV)

Applicant and his representatives

Mr Tang Kwan Ching - Applicant
Mr Wu Yik Wa] Applicant's representatives
Mr Tsang Chi Wai]

4. 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.

5. With the aid of a PowerPoint presentation, Mr Raymond H.F. Au, DPO/TM&YLV, PlanD, briefed Members on the background of the review application including the proposed use, 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 the planning considerations and assessments as detailed in the TPB Paper No. 10891 (the Paper). PlanD maintained its previous view of not supporting the application.

[Dr C.H. Hau, Ms Winnie W.M. Ng, Dr Conrad T.C. Wong and Ms Bernadette W.S. Tsui joined the meeting during PlanD's presentation.]

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

7. With the aid of a PowerPoint presentation, Mr Wu Yik Wa, the applicant's representative, made the following main points:

- (a) he was engaged by the applicant as technical consultant to set up a fish farm at the application site (the Site). The location of the Site was suitable for developing a quality fish farm as it could utilize the existing ponds nearby for drainage discharge to the nearby Deep Bay but the area of the existing pond (about 17,045m²) was excessive for modern fish farming practice. The proposed pond filling was for formation of 12

smaller and shallower ponds which could facilitate control over water quality (e.g. polluted water in smaller ponds could be more efficiently changed) and fish stock management (e.g. fishes at different stages of their life cycle could be reared in different ponds to enhance survival rate and facilitate easier and more frequent harvest);

- (b) he did not agree with the comment of the Agriculture, Fisheries and Conservation Department (AFCD) that nets or tanks might be used in the fish farm instead of pond filling as those methods were not effective;
- (c) his company had assisted many clients to set up and reinstate fish farms in the Mainland and overseas, e.g. Shanghai, Dongguan, Shandong and Malaysia. Quoting the example of a fish farm in Malaysia, the fish produced there were exported to Hong Kong for distributing to local markets. Based on his experience, the operating costs of indoor fish farms were generally too high and might not be financially sustainable in the long term. The prices of fish produced in indoor fish farms were about two to three times higher than those from outdoor ones; and
- (d) the proposed outdoor fish farm would be cost-effective and it could serve as a showcase for modern environmentally friendly fish farming practice in Hong Kong. Modern water treatment facilities would be adopted to reduce the amount of pollutants and such practice would enhance productivity and sustainability of the fish farm and ensure food safety. The proposed pond filling was for culture of Jade Perch, which would be sold to local markets in Yuen Long to minimize transportation costs.

8. Mr Tang Kwan Ching, the applicant, made the following main points:

- (a) the Site had been owned by his family for decades and it was a private lot. Although some fish ponds in the surrounding areas were being filled up by other owners to prevent breeding of mosquitoes and drowning hazard for children, he decided to retain the Site as a fish pond. His family had substantial land holdings including a few ponds in the

area but he only planned to set up a fish farm at the Site that had good accessibility to Tin Wah Road via a local track to the south;

- (b) he noted the comments of relevant government departments on the need to conserve wetland. However, the areas to the south and west of the Site were planned for recreation and open space uses with no wetland;
- (c) the proposal only involved partitioning the existing fish pond into 12 smaller and shallower ponds. There was no change in the fish pond use. Water from the fish farm would be discharged to Deep Bay via the existing drainage system of the ponds nearby; and
- (d) regarding the dust that might be generated by construction vehicles, currently there were construction vehicles travelling to a dumping site to the south and no pollution problem was observed. The proposed filling of pond would not generate adverse environmental, ecological and drainage impacts.

9. The applicant's representative, Mr Tsang Chi Wai, supplemented that as a proposed mitigation measure, the time for construction/filling of pond could be restricted between 9:00 a.m. and 4:00 p.m. daily with about 8 to 10 trips of construction vehicle per hour. Traffic generated from the Site during the construction period would be within the capacity of the nearest Tin Wah Road/Wetland Park Road junction. If considered necessary, the proposed filling of pond could be implemented in two phases with the construction period extended from three months to say six months to reduce traffic flow of construction vehicles.

10. As the presentations from the representative of PlanD, the applicant and his representatives were completed, the Chairperson invited questions from Members.

11. Some Members raised the following questions to the applicant and PlanD's representative:

Operation of Fish Farm

- (a) when the technical consultant began to be involved in the project and why the information presented at the meeting was not submitted earlier in support of the review application;
- (b) whether fish nets or fish tanks, as mentioned in the comments of AFCD, could be used to obviate the need for filling of the pond;
- (c) noting the high capital cost associated with filling the existing pond with about 20,000m³ of soil and the reduction in the total area of the fish pond after filling (about 60% reduction), whether the proposed fish farming practice was financially viable; and
- (d) as an alternative, whether it was practical to place large tanks in the pond with walkways between the tanks for staff access for operation of a fish farm.

12. In response, Mr Wu Yik Wa, the applicant's representative, made the following main points:

- (a) he was involved in the project for about one year. The applicant did not submit further information on the technical details in support of the review application as he might consider the details to be irrelevant for consideration of the application;
- (b) use of fish nets in a large pond (about 17,045m²) for fish farming was inefficient because it would take about six months to replenish the pond with fresh water and carry out disinfection. With the proposed pond filling and partitioning, water of the small ponds could be changed incrementally (e.g. at a rate of 5% per week to allow change of water with fish waste and uneaten fish feeds on a regular basis). The small ponds could also facilitate waste water treatment and increase in oxygen level, which would accelerate healthy growth of the fish stock. The proposed

multiple small fish ponds could also enhance operational efficiency by using much smaller fish nets with less manpower required;

- (c) about 10 - 20% of the proposed filling was for re-instatement of the pond banks;
- (d) regarding financial viability, the applicant had already identified a potential investor for the project. Upon obtaining planning permission from the Board, the applicant might develop 50% of the Site on a trial basis to ascertain financial viability. Traditional fish farming practice could only harvest once or twice each year but the proposed modern fish farming practice could harvest continuously to ensure stable supply year-around. Since adult fishes and fry/fingerlings would be separated in ponds of different sizes, the proposed fish farming practice could maximise the space and increase the survival rate of the fry/fingerlings. The total production would be tenfold of traditional fish farming practice; and
- (e) if fish tanks were used, they had to be large in size and made of sturdy material such as fibreglass to overcome the high water pressure thus involving very high capital cost. Besides, it would be necessary to install drainage system at the bottom of each tank and the high cost would be comparable to indoor fish farms.

13. The applicant, Mr Tang Kwan Ching, supplemented that if large fish tanks were used, concrete bases and columns were required to hold the tanks in their positions. If the Board approved the application, it could be a showcase for quality fish farms and encourage other operators to adopt modern fish farming practice.

14. In response to a Member's question, Mr Raymond H.F. Au, DPO/TM&YWL, PlanD, said that planning permission would not be required for putting large fish tanks in the pond if filling or excavation of land was not involved and the walkways between the tanks were not made of permanent materials. A Member asked whether the applicant had sought advice from AFCD on their proposal. In response, Mr Raymond H.F. Au, DPO/TM&YWL, PlanD,

said that the applicant could liaise with AFCD about their proposal but for the subject application, as the Site was within “Conservation Area” (“CA”) zone and the Wetland Conservation Area, the applicant had not submitted the necessary technical assessments, including an ecological impact assessment, to support the application.

Environmental and Ecological Aspects

15. A Member asked the applicant and his representatives whether there were measures to ensure that the discharge of waste water from the fish farm would not have adverse ecological and environmental impacts on the surrounding areas including Deep Bay. In response, Mr Tang Kwan Ching, the applicant, said that the previous operation of fish farm at the Site had ceased for about 10 years. According to his experience, traditional fish farming practice in the area would involve discharging untreated waste water to Deep Bay. Hence, although planning permission was not required for operating a traditional fish farm at the Site, it would have ecological impact on the wetland nearby. The proposed modern fish farming practice would minimise the ecological impact. The applicant’s representative, Mr Wu Yik Wa, supplemented that with adoption of modern water treatment facilities in the proposal, waste water would be filtered before disposal to protect the environment and ecology. In addition, greening would be provided on land surface to enhance visual amenity.

16. Mr Patrick K.P. Cheng, Chief Engineer/Traffic Survey & Support, Transport Department, asked how the dust generated by construction vehicles was proposed to be mitigated. In response, Mr Tsang Chi Wai, the applicant’s representative, said that the flow of construction vehicles could be controlled, and the access track leading to the Site and construction vehicles could be cleaned regularly to minimise dust impact on the surrounding areas.

17. 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 would 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

18. Members generally did not support the application as the applicant had not provided strong justifications in support of the review application nor information to demonstrate the proposal would not have adverse impacts.

19. A Member said that the modern fish farming practice proposed by the applicant might be cost-effective but it was not a relevant planning consideration for the subject application as the Site was zoned “CA” and the applicant had not provided information on how the ecological value of the area could be conserved. The applicant should identify a suitable site for the proposed fish farm in other areas.

20. Recognising the applicant’s initiative for modernised fish farming practice, a Member said that AFCD should be more proactive to provide advice and assistance to the fisheries sector to facilitate modern fish farming practice in suitable areas.

21. The Chairperson said that as part of the Northern Metropolis Development Strategy, the Government would adopt a proactive conservation policy by resuming private fish ponds/wetlands with conservation value for the development of Wetland Conservation Parks (WCPs). The AFCD had commissioned a consultancy study to take forward the development of the WCPs system. The AFCD could be invited to brief Members on the findings of the study at an opportune time.

22. The Chairperson concluded that Members generally did not support the application as the applicant had not provided strong justifications nor submitted any written submission, and the oral submission at the meeting failed to demonstrate that the proposed filling of pond would not have significant adverse drainage, traffic and ecological impacts on the surrounding areas. There was no reason to deviate from the RNTPC’s decision and the review application should be rejected.

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

- “(a) the proposed pond filling is not in line with the planning intention of the “Conservation Area” (“CA”) zone which is to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland

ecosystem, and any change in use within this zone has to adopt the “no-net-loss in wetland” principle. The applicant fails to demonstrate that the proposed pond filling is required to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest;

- (b) the proposed pond filling, which falls within the Wetland Conservation Area, is not in line with the Town Planning Board Guidelines for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) in that the “no-net-loss in wetland” principle is not complied with, and no ecological impact assessment has been submitted to demonstrate that no on-site and/or off-site disturbance impact would be resulted, or that such impacts could be fully mitigated through positive measure;
- (c) the applicant fails to demonstrate that the proposed pond filling would not have significant adverse drainage, landscape and traffic impacts on the surrounding areas; and
- (d) approval of the application would set an undesirable precedent for similar applications within the “CA” zone and the cumulative effect of approving such similar applications would result in a general degradation of the ecology and natural environment of the area.”

Agenda Item 4

[Open Meeting]

Request for Deferment of Review of Application No. A/YL-TT/578

Temporary Warehouse for Storage of Construction Equipment for a Period of 3 Years in “Village Type Development” Zone, Lot 936 in D.D. 118, No. 66 Nam Hang Tsuen,

Yuen Long

(TPB Paper No. 10892)

[The item was conducted in Cantonese.]

24. The Secretary reported that on 3.4.2023, the applicant requested deferment of consideration of the review application for two months in order to allow time for preparation of further information (FI) to address departmental comments. It was the first time the applicant requested deferment of the review application.

25. Members noted that the justifications for deferment met the criteria as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33A) in that the deferment would allow the applicant to prepare FI to address outstanding issues, the deferment period was not indefinite and the deferment would not affect the rights or interests of other relevant parties.

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

Sai Kung & Islands District

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/I-TCTC/61

Proposed House (New Territories Exempted House – Small House) in “Green Belt” Zone,

Lot 2567 in D.D. 3 TC, Ha Ling Pei Village, Tung Chung, Lantau Island

(TPB Paper No. 10893)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

PlanD's representatives

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| Ms Caroline T.Y. Tang | - | District Planning Officer/Sai Kung & Islands (DPO/SKIs) |
| Mr Walter W.N. Kwong | - | Senior Town Planner/ SKIs (STP/SKIs) |
| Mr Steve S.H. Cheung | - | Town Planner/SKIs |

Applicant and his representatives

- | | | |
|-------------------|---|-----------------------------|
| Mr Leung Koon Hei | - | Applicant |
| Mr Man Ka Chai |] | Applicant's representatives |
| Mr Law Lap Yin |] | |

28. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representatives to brief Members on the review application.

29. With the aid of a PowerPoint presentation, Mr Walter W.N. Kwong, STP/SKIs, PlanD, briefed Members on the background of the review application including the proposed development, 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 the planning considerations and assessments as detailed in the TPB Paper No. 10893 (the Paper). Taking into account the further information provided by the applicant to support the review application, no adverse comments from Government departments and special circumstances of the case, PlanD had no objection to the review application.

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

31. Mr Man Ka Chai, the applicant's representative, made the following main points:

- (a) the applicant first applied to the Lands Department (LandsD) in 1993 for building a Small House in Ha Ling Pei. Substantial money had been spent by the applicant in the past few decades to take forward the proposed Small House development; and
- (b) regarding the previous concern from relevant government department on slope stability, a geotechnical survey report for the Small House development had been submitted and approved by Government.

32. As the presentations from the representatives of PlanD, the applicant and his representatives had been completed, the Chairperson invited questions from Members.

Special Circumstances

33. In response to a Member's enquiry about the special circumstances of the case that warranted sympathetic consideration, Ms Caroline T.Y. Tang, DPO/SKIs, PlanD said that the applicant had started to apply for development of a Small House at the application site (the Site) in Ha Ling Pei since 1999 and application for granting the Site to the applicant by way of Private Treaty Grant was approved by LandsD on 24.9.2015. On 26.1.2016, the applicant received LandsD's offer letter of the Site for Small House development which was 18 days after the gazettal of the outline zoning plan (OZP) covering the Site on 8.1.2016, and the offer was subsequently executed on 21.9.2016 and registered in the Land Registry on 30.9.2016. The Certificates of Exemption for site formation works, building works and drainage works for the proposed Small House development were issued by LandsD on 1.4.2020. Although the Site was zoned "Green Belt" ("GB") on the OZP, the applicant had addressed various technical issues including geotechnical and landscape impacts and potential impact on the nearby Tung Chung Fort (TCF) (being a declared monument). In view of the above, sympathetic consideration might be given to the review application.

Heritage Conservation

34. Noting the proximity of the Site to TCF, a few Members enquired what mitigation measures were proposed to protect the declared monument.

35. With the aid of some PowerPoint slides, Ms Caroline T.Y. Tang, DPO/SKIs, PlanD,

made the following main points:

- (a) there would be a buffer distance of not less than 15m between the eastern boundary of the Site and TCF. The buffer area between TCF and the Site was Government land; and
- (b) the applicant would adopt appropriate precautionary, protection and monitoring measures such as provision of an alert system to monitor vibration during the construction period. Besides, transportation of building materials would avoid passing by TCF. The proposed measures were acceptable to the Antiquities and Monuments Office.

Landscape and Visual Aspects

36. A Member noted that screen planting with climbers facing TCF were proposed by the applicant to mitigate landscape and visual impacts and enquired whether an approval condition would be imposed. The same Member said that in view of the low survival rate of climbers on building walls and the associated maintenance issue, alternative mitigation measures such as planting of small trees and shrubs for screening or adopting a facade design with materials and colour compatible with TCF might be considered. Another Member noted that according to the aerial photograph (Plan R-3 of the Paper), the Site was covered with dense vegetation but only a few trees were seen on the site photograph (Plan R-4a of the Paper) and enquired about the discrepancy.

37. In response, with the aid of some PowerPoint slides, Ms Caroline T.Y. Tang, DPO/SKIs, PlanD, made the following main points:

- (a) the landscape proposal was suggested by the applicant on a voluntary basis and no approval condition on the submission and implementation of landscaping proposal was recommended in the Paper; and
- (b) according to a number of site inspections including the most recent one, while signs of vegetation clearance were observed, a few trees were

found on the Site. There were more trees on the adjoining slopes, which were also shown on the aerial photograph.

38. In response, Mr Law Lap Yin, the applicant's representative, said that four new trees were proposed to be planted at the northern boundary of the Site and screen planting on the eastern façade facing TCF could be placed on a wire netting system detached from the external wall to overcome the maintenance issue. Mr Man Ka Chai supplemented that the applicant was willing to provide more planting on Government land within the buffer area facing TCF if required by the Board/Government. He also agreed with a Member's suggestion that façade colour and material that were compatible with TCF could be adopted. Mr Andrew C.W. Lai, Director of Lands (D of Lands), said that from the perspective of land administration policy, compensatory planting for private developments should not be provided on Government land as project proponents should be responsible for the management and maintenance of the trees/plants within their lots.

39. 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 would inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representatives, the applicant and his representatives for attending the meeting. They left the meeting at this point.

Deliberation Session

40. A Member said that sympathetic consideration could be given to the review application since the applicant had been applying for a Small House in Ha Ling Pei since 1993 and he had received LandsD's offer letter of Small House on the Site on 26.1.2016, which was only 18 days after the gazettal of the OZP covering the Site. The Member remarked that such information should have been provided by the applicant at the section 16 application stage to facilitate RNTPC's consideration.

41. A Member said that as the Site was zoned "GB" and was located near TCF, sympathetic consideration could only be given to the subject application based on very special circumstances of the case. The same Member opined that if the Board decided to approve the application, consideration could be given to incorporate an advisory clause requiring the facade

design of the Small House to be compatible with the TCF. Other Members generally agreed with the Paper's recommendation to approve the application on review based on the special circumstances.

42. A Member opined that screen planting, either by trees or climbers, should be provided to mitigate visual impact of the proposed development on TCF and such requirement could be stipulated as an approval condition. A Member said that it was not necessary to incorporate an approval condition on landscape proposal/compensatory planting because that was not a major concern in considering the application. Another Member concurred and said that given the small area of the Site, there was spatial constraint to plant more trees within the Site.

43. In response to the Chairperson's question, Mr Andrew C.W. Lai, D of Lands, reiterated that planting for private developments should normally not be provided on Government land and the future management and maintenance responsibilities on planting within private lots should be borne by the applicant. In any case, tree planting/compensation appeared not to be a major consideration for the subject case. The Chairperson said that consideration could be given to add an advisory clause on the provision of compensatory planting within the Site and screen planting to mitigate impact on TCF. Mr Ivan M.K. Chung, Director of Planning, said that the Small House Grant for the Site was already executed in 2016 and given that the Site could just accommodate the footprint of a standard Small House of about 65.03m², there might be physical constraints for planting more trees within the Site. It would be more appropriate to address members' concern on tree planting by incorporating an advisory clause. Approval of the review application should be based on special circumstances since the applicant had obtained the Small House Grant and addressed the technical issues raised by relevant Government departments at the time, and the Board had approved previous cases in other "GB" zones with similar background based on the individual special circumstances. Approval of the application would not set an undesirable precedent for other similar applications.

44. The Chairperson concluded that Members generally agreed with the Paper's recommendation to approve the application on review. The Board also agreed that suitable advisory clauses should be added to address Members' concerns.

45. After deliberation, the Board decided to approve the application on review, on the terms of the application as submitted to the Town Planning Board (the Board). The permission

should be valid until 28.4.2027, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed.

46. The Board also agreed to advise the applicant to note the advisory clauses as set out at Annex F of the Paper with the following additional advisory clauses:

“to provide compensatory planting within the boundary of the application site and to provide screen planting facing Tung Chung Fort (TCF) where feasible; and

the facade design of the proposed development should be compatible with TCF.”

Agenda Item 6

[Open Meeting]

Any Other Business

47. There being no other business, the meeting was closed at 4:10 p.m.