

**Minutes of 1319<sup>th</sup> Meeting of the  
Town Planning Board held on 31.5.2024**

**Present**

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

Chairperson

Mr Stephen L.H. Liu

Vice-chairperson

Mr Daniel K.S. Lau

Mr Stanley T.S. Choi

Mr K.W. Leung

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

Professor Roger C.K. Chan

Dr Venus Y.H. Lun

Mr Timothy K.W. Ma

Professor Bernadette W.S. Tsui

Dr C.M. Cheng

Mr Daniel K.W. Chung

Dr Tony C.M. Ip

Mr Ryan M.K. Ip

Mr Rocky L.K. Poon

Professor B.S. Tang

Mr Simon Y.S. Wong

Mr Derrick S.M. Yip

Chief Traffic Engineer/New Territories East  
Transport Department  
Mr K.L. Wong

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

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

Deputy Director/General, Lands Department  
Ms Jane K.C. Choi

Director of Planning  
Mr Ivan M.K. Chung

Deputy Director of Planning/District  
Ms Donna Y.P. Tam

Secretary

**Absent with Apologies**

Ms Sandy H.Y. Wong

Mrs Vivian K.F. Cheung

Mr Vincent K.Y. Ho

Mr Ben S.S. Lui

Ms Kelly Y.S. Chan

Professor Simon K.L. Wong

**In Attendance**

Assistant Director of Planning/Board  
Ms Caroline T.Y. Tang

Chief Town Planner/Town Planning Board  
Miss Josephine Y.M. Lo

Senior Town Planner/Town Planning Board  
Mr Thomas C.S. Yeung

## **Agenda Item 1**

[Open Meeting]

### Confirmation of Minutes of the 1318<sup>th</sup> Meeting

[The item was conducted in Cantonese.]

1. The draft minutes of the 1318<sup>th</sup> meeting were confirmed without amendment.

## **Agenda Item 2**

[Open Meeting]

### Matters Arising

[This item was conducted in Cantonese.]

#### (i) Approval of Draft Outline Zoning Plans

2. The Secretary reported that on 14.5.2024, the Chief Executive in Council approved the draft South Lantau Coast Outline Zoning Plan (OZP) (renumbered as S/SLC/23), the draft Ma On Shan OZP (renumbered as S/MOS/28) and the draft Shau Kei Wan OZP (renumbered as S/H9/20) under section 9(1)(a) of the Town Planning Ordinance. The approval of the OZPs was notified in the Gazette on 24.5.2024.

#### (ii) Hearing Arrangement for Consideration of Representations on Draft Outline Zoning Plans

3. The Secretary reported that the item was to seek Members' agreement on the hearing arrangement for consideration of representations on (a) the draft San Tin Technopole (STT) Outline Zoning Plan (OZP) No. S/STT/1; (b) the draft Mai Po & Fairview Park (MP) OZP No. S/YL-MP/7; and (c) the draft Ngau Tam Mei (NTM) OZP No. S/YL-NTM/13.

4. The Secretary reported that the new draft STT OZP No. S/STT/1, which replaced the then San Tin OZP, was to take forward the recommendations of the Revised Recommended Outline Development Plan of the 'Investigation Study for First Phase Development of the New

Territories North – San Tin/Lok Ma Chau Development Node’, which was jointly commissioned by the Civil Engineering and Development Department (CEDD) and the Planning Department, with AECOM Asia Company Limited (AECOM) as the consultant. The draft STT OZP involved zoning of sites for proposed public housing developments to be developed by the Hong Kong Housing Authority (HKHA) with the Housing Department (HD) as the executive arm, and development of the proposed San Tin Station of the Northern Link Main Line by MTR Corporation Limited (MTRCL). Consequential to the preparation of the STT OZP, the NTM OZP was amended to excise the northern part of the NTM planning scheme area for incorporation into the STT OZP (i.e. Amendment Item A of NTM OZP). Amendments to the MP OZP, including incorporation of parts of the then San Tin OZP and rezoning of an area were to take forward the recommendations of the ‘Strategic Feasibility Study on the Development of the Wetland Conservation Parks System under the Northern Metropolis Development Strategy’, which was commissioned by the Agricultural, Fisheries and Conservation Department (AFCD) with AECOM as the consultant. Representations were submitted by Birkenhead Properties & Investments Limited (R93 of STT OZP) which was a subsidiary of New World Development Company Limited (NWD), The Conservancy Association (CA) (R105 of STT OZP; R6 of MP OZP), the Hong Kong Institute of Architects (HKIA) (R88 of STT OZP), the Hong Kong Institute of Surveyors (HKIS) (R89 of STT OZP), the Hong Kong Institute of Urban Design (HKIUD) (R90 of STT OZP), the Hong Kong Bird Watching Society (HKBWS) (R109 of STT OZP and R7 of MP OZP), Topcycle Development Limited (R94 of STT OZP and R1 of MP OZP) which was a joint venture of Henderson Land Development Company Limited (HLD) and Sun Hung Kai Properties Limited (SHK), MTRCL (R1488 of STT OZP), and Profit Point Enterprises Limited (R3 of MP OZP), which was a subsidiary of HLDs, Chiu Duncan (R69 of STT OZP), 陳建業 (R72 of STT OZP) who was the chairman of the Un Long Sung Ching San Tsuen Pig Raising Co-operative Society Limited and Kadoorie Farm and Botanic Garden (R1484 of STT OZP and R1099 of MP OZP). The following Members had declared interests on the item:

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|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Ms Jane K.C. Choi<br>(as Deputy Director/General,<br>Lands Department)     | - being an alternate representative of the Director of Lands who was a member of HKHA; |
| Mr Paul Y.K. Au<br>(as Chief Engineer (Works),<br>Home Affairs Department) | - being a representative of the Director of Home Affairs who was a member of the       |

- Strategic Planning Committee and the Subsidised Housing Committee of HKHA;
- |                     |                                                                                                                                                                                                                                                                  |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mr Stephen L.H. Liu | - being a past president and a fellow member of HKIS;                                                                                                                                                                                                            |
| Ms Sandy H.Y. Wong  | - being an independent non-executive director of MTRCL; and owning a property in Mai Po;                                                                                                                                                                         |
| Mr Vincent K.Y. Ho  | - having current business dealings with HLD, SHK and AECOM; being the advisory committee member of the New World Build for the Good under NWD; and being a past president and a fellow member of HKIS;                                                           |
| Dr Tony C.M. Ip     | - having current business dealings with AFCD, AECOM, CA, SHK and Un Long Sung Ching San Tsuen Pig Raising Co-operative Society Limited; being a council member of HKIA; and being a member of HKIUD;                                                             |
| Professor B.S. Tang | - being a member of HKIS;                                                                                                                                                                                                                                        |
| Mr K.W. Leung       | - being a former executive committee member of HKBWS and a former chairman of Crested Bulbul Club Committee under HKBWS; and owning a property in Mai Po;                                                                                                        |
| Mr Ricky W.Y. Yu    | - being the director and chief executive officer of Light Be which had received donations from Chow Tai Fook Charity Foundation (related to NWD) and philanthropic support from NWD for several pieces of land in Tin Shui Wai for transitional housing purpose; |
| Mr Ryan M.K. Ip     | - being the Vice-president cum co-head of Public Policy Institute of Our Hong Kong Foundation (OHKF) which had received donations from HLD, NWD, Chow Tai Fook Group Limited (related to NWD) and                                                                |

Kadoorie family; being one of the consultants of the consultancy study on the development plan for innovation and technology use in the San Tin area commissioned by the Information Technology and Industry Bureau; and being an advisory committee member on the Northern Metropolis; and Mr Chiu Duncan was one of the advisers of OHKF; and

Professor Jonathan W.C. Wong - being an advisory committee member on the Northern Metropolis.

5. Members noted that Ms Sandy H.Y. Wong and Mr Vincent K.Y. Ho had tendered apologies for being unable to attend the meeting. As the interests of Ms Jane K.C. Choi, Messrs Paul Y.K. Au, Ricky W.Y. Yu and Ryan M.K. Ip and Dr Tony C.M Ip were direct, Members agreed that they could stay in the meeting but should refrain from participating in the discussion. As the interests of Mr Stephen L.H. Liu, Professor B.S. Tang and Professor Jonathan W.C. Wong were indirect, and Mr K.W. Leung had no involvement in the submission of the relevant representation and his property had no direct view of STT and the amendment item sites, Members agreed that they could participate in the discussion.

6. Mr Daniel K.W. Chung declared an interest as he was a former director of CEDD (DCED) from 2015 to 2016, during which the planning and development projects in the San Tin area were under DCED's portfolio. The Committee agreed that since Mr Chung was performing official duties in his capacity as DCED at that time and had retired from the Government in 2018, the interest declared was considered indirect and he could participate in the discussion.

7. The Secretary briefly introduced that on 8.3.2024, the three draft OZPs were exhibited for public inspection under section 5 of the Town Planning Ordinance. For the draft STT OZP, 1,644 representations were received. As there were 54 representations made with identity information missing and 46 representations made out-of-time, which should be considered invalid and treated as not having been made, the number of valid representations was 1,544. For the draft MP OZP, 1,176 representations were received. As there were 30 representations made with identity information missing and 44 representations made out-of-

time, which should be considered invalid and treated as not having been made, the number of valid representations was 1,102. For the draft NTM OZP, three valid representations were received.

8. In view of the similar nature of the representations in relation to the STT development and that a large number of representations were common to the three OZPs, in particular STT and MP OZPs, the representations on the three OZPs were recommended to be considered by the full Board collectively in one group. To ensure efficiency of the hearing, a maximum of 10 minutes presentation time would be allotted to each representer in the hearing session irrespective of the number of OZPs he/she had made representation on. Consideration of the representations by the full Board is tentatively scheduled for late June/July 2024. Given the history of the STT development and to facilitate Members' understanding of the proposal, especially for new Members, the Secretariat would arrange a background briefing and site visit to San Tin for Members in late June 2024 tentatively after issuance of the representation paper and before commencing the representation hearing.

9. After deliberation, the Board agreed to the hearing arrangement in paragraph 8 above.

### **Sha Tin, Tai Po and North District**

#### **Agenda Item 3**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LYT/821

Proposed House (New Territories Exempted House - Small House) in "Agriculture" and "Village Type Development" Zones, Lot 1644 S.A in D.D. 76, Kan Tau Tsuen, Fanling (TPB Paper No. 10970)

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[The item was conducted in Cantonese.]

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



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

PlanD

Ms Margaret H.Y. Chan - District Planning Officer/Shia Tin,  
Tai Po and North (DPO/STN)

Ms Ivy C.W. Wong - Senior Town Planner/North (STP/N)

Applicant

Mr Lee Lok Hang

Applicant's Representatives

Mr Lee Koon Yeung

Mr Man Ka Chai - Ching Wan Engineering Consultants  
Company

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

12. With the aid of a PowerPoint presentation, Ms Ivy C.W. Wong, STP/N, PlanD briefed Members on the background of the review application including the application site (the Site) and the surrounding area, the applicant's proposal and justifications, 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 TPB Paper No. 10970 (the Paper). As there had been no major change in planning circumstances since the consideration of the s.16 application, PlanD maintained its previous view of not supporting the application.

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

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

- (a) the applicant acquired the Site from the previous landowner in 2020. At that time, there was a valid planning permission for development of a Small House (SH) on the Site (the previous planning permission). Before acquiring the Site, the applicant had consulted the Lands Department (LandsD) to confirm whether it was legitimate for the applicant to apply for SH development on the Site based on the previous planning permission, and received an affirmative response. It was not until last year that the applicant was aware that the previous planning permission had already lapsed; and
- (b) as mentioned by the representative of PlanD, the Board had formally adopted a more cautious approach in considering applications for SH development since August 2015. However, the previous application was approved in 2017, i.e. after the adoption of a more cautious approach. It was not understandable why the current application was rejected merely because it was submitted by a different applicant.

15. Mr Lee Lok Han, the applicant, and Mr Lee Koon Yeung, the applicant's father, made the following main points:

- (a) they were the indigenous villagers of Lau Shui Heung. The applicant had previously submitted a planning application for SH development at a site he owned in Lau Shui Heung in 2019/2020. However, the application was rejected by the Board mainly because the proposed SH was located outside the "Village Type Development" ("V") zone;
- (b) they then searched for an alternative site and identified the Site owned by Mr Lee Koon Yeung's friend, who was old and decided not to proceed with the SH development at the Site under the previous planning permission. Before acquiring the Site in 2020, they had consulted LandsD and were given to understand that they could take up the SH development at the Site under the previous planning permission;
- (c) the applicant applied for an SH grant via the District Lands Office (DLO) in Fanling, and the processing of the SH grant was prolonged due to the pandemic

situation. In October 2023, they were advised that the previous planning permission had already lapsed and were surprised to learn that a fresh planning application was required; and

- (d) the Site was the subject of a previous planning permission for SH development. It was unreasonable that the current application was rejected only due to the fact that it was submitted by a different applicant.

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

17. Some Members raised the following questions relating to the considerations of the current application:

- (a) noting that both application No. A/NE-LYT/629 (the previous application approved by RNTPC on 23.6.2017) and the current application were submitted and considered after the Board had formally adopted a more cautious approach in considering applications for SH development in August 2015, what the major considerations were on recommending rejection of the current application, and whether submission of the current application by a different applicant was a determining factor for the rejection; and
- (b) noting that in considering the previous application in 2017 by RNTPC, sympathetic consideration was given as there were approved applications for SH developments nearby that new village clusters were expected to be formed in the locality as mentioned in paragraph 7.4 of the Paper, and that such village clusters were still not yet formed as shown on Plan A-3 of the Paper, whether similar sympathetic consideration for the previous application was applicable to the current application, and whether the delay in implementation of those approved SH developments to the south of the Site was another major reason for recommending rejection of the current application.

18. In response, with the aid of a visualiser, Ms Margaret H.Y. Chan, DPO/STN, PlanD made the following main points:

- (a) reference was made to the “Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories” (the Interim Criteria) when considering the application. According to criterion (d) of the Interim Criteria (as attached in Appendix II of Annex A of the Paper), application for New Territories Exempted House (NTEH) or SH with previous planning permission lapsed would be considered on its own merits. In general, proposed development which was not in line with the Interim Criteria would normally not be allowed. However, sympathetic consideration might be given if there were specific circumstances to justify the cases, such as the site was an infill site among existing NTEHs/SHs, the processing of the SH grant was already at an advance stage;
- (b) the previous application was approved by RNTPC on 23.6.2017 mainly on consideration, amongst others, that there were approved SH applications nearby at different stages of development and new village clusters were expected to be formed in the locality. The previous planning permission subsequently lapsed on 23.6.2021; and
- (c) for the current application, as it was submitted by a different applicant from the previous application which had already lapsed and the processing of the SH grant could not be regarded as being at an advance stage. Besides, as shown on the aerial photo on Plan A-3 and the site plan on Plan A-2a of the Paper, the Site was immediately surrounded by a few squatter/temporary structures instead of existing NTEHs/SHs. New village clusters in the locality, i.e. those to the south of the Site, were not yet formed as previously expected. Hence, the Site could not be regarded as an infill site among existing NTEHs/SHs. In view of the above, sympathetic consideration of the previous application was not applicable to the current application.

19. A Member asked since when the Interim Criteria was adopted by the Board for considering applications for SH development. In response, Ms Margaret H.Y. Chan, DPO/STN, PlanD explained that the Interim Criteria was first promulgated in 2000 and later revised in 2007. While the same set of criteria as laid down in the Interim Criteria was being

adopted by the Board, since August 2015, the Board had adopted a more cautious approach in considering applications for SH developments, i.e. in considering if there was a general shortage of land in meeting the demand for SH development, more weighting had been put on the number of outstanding SH applications provided by LandsD and less weight had been given to the 10-year SH demand forecast provided by Indigenous Inhabitant Representative (IIR). In response to the same Member's further enquiry, Ms Margaret H.Y. Chan, DPO/STN, PlanD said that the same criteria as laid down in the Interim Criteria, including the specific circumstances for justifying sympathetic consideration and the more cautious approach in considering land supply for SH development, were adopted by RNTPC in 2017 when approving the previous application and in 2024 when rejecting the current application.

20. In relation to the Member's enquiry on whether RNTPC was consistent and justifiable in considering the previous and current applications at the Site, the Chairperson recapitulated and Ms Margaret H.Y. Chan, DPO/STN, PlanD echoed that when considering the previous application on 23.6.2017, RNTPC had approved a number of similar applications for SH developments to the south of the Site on 17.2.2017 and it was then reasonable for RNTPC to expect that new village clusters were forming in the locality, which warranted the Site being considered an infill site for SH development and based on which sympathetic consideration was given in approving the previous application. However, those approved SH applications to the south of the Site were yet to be realised and new village clusters were yet to be formed at the time when RNTPC considered the current application in January 2024. Therefore, sympathetic consideration was not given to the current application (with previous planning permission lapsed) considering that the Site was not regarded as an infill site amongst existing NTEHs/SHs, coupled with the fact that the processing of the SH grant was not at an advance stage as explained above.

21. Mr Man Ka Chai, the applicant's representative, and Mr Lee Lok Han, the applicant, queried why the 'unformed' village clusters would cast an effect on the current application and why the previous application could be approved based on the same 'unformed' village clusters, but not for the current application. Besides, SH development involved not only the process of planning application, but also other procedures such as those under LandsD's purview that might require very long processing time. It was reiterated that the applicant had consulted LandsD who advised that the applicant could take up the SH development under the previous planning permission, and it was not until 2023 that the applicant was advised that the previous

planning permission had already lapsed. It was also doubted how the Board could consider the case if the current application or an application for extension of time for commencement of development under the previous planning permission was submitted by the same applicant. Also, the pandemic situation, which had affected the progress in processing the SH grant at the Site as well as those to the south, should also be taken into account.

22. At the invitation of the Chairperson, Ms Margaret H.Y. Chan, DPO/STN, PlanD, with the aid of a visualiser, elaborated on the background of the approved SH developments to the south of the Site. For the 13 approved applications for SH developments to the south of the Site (applications No. A/NE-LYT/604 to A/NE-LYT/616), those applications were first approved in 2012, i.e. before the adoption of a more cautious approach by the Board, and one of the considerations was that there was shortage of land for meeting the SH demand, which was estimated taking into account both the number of SH applications provided by LandsD and 10-year SH demand forecast provided by IIR. When RNTPC considered the 13 subsequent applications in 2017, sympathetic consideration was given to the fact that there were approved SH applications at different development stages nearby, which were forming a new village cluster in the locality. Reference was also made to applications No. A/NE-LYT/808 and A/NE-LYT/665 to 667 in the vicinity of the Site, and those applications were approved by RNTPC in 2023 and 2018 respectively on sympathetic consideration in that there were approved SH applications at different development stages nearby where new village clusters were expected to be formed in the locality and/or the applications were submitted by the same previous applicants. For the current application, however, similar sympathetic consideration was not applicable as explained above.

23. At the invitation of the Chairperson, Ms Jane K.C. Choi, Deputy Director/General, LandsD explained that normally LandsD would not advise the public on whether they should or should not acquire certain land for SH development. In general, there were various steps to go through for processing of an SH grant, such as confirmation of the indigenous villager's status of the applicant (which involved declaration of the status as well as resolving objections, if received), departmental circulation of the sewerage/drainage proposals and site formation plans, resolving interface issues due to demarcation of the lot boundary, checking planning approval validity, if required, etc. Even if the SH grant was approved, there might be on-site technical issues that needed to be followed up by the applicant before construction works could commence. All these procedures and issues might require considerable time to process and

resolve. For the SH grant in relation to the current application, it was currently in the process of confirming the applicant's status as an indigenous villager and resolving objections received. Regarding the current position of the approved SH grants for the sites to the south of the Site, she had no information on hand.

24. Some Members raised the following questions regarding the approved applications for SH developments in the vicinity of the Site:

- (a) whether those approved applications had been implemented, and the current status of the relevant SH grants;
- (b) for applications No. A/NE-LYT/604 to A/NE-LYT/616, whether the permissions given in 2017 were mainly on the ground that those applications were once approved in 2012 and if so, what the different considerations were for the current application which also came with a previous planning permission with which the applicant might have a legitimate expectation that the current application would be approved; and
- (c) for applications No. A/NE-LYT/604 to A/NE-LYT/616, whether the planning permissions given in 2017 had lapsed and if so, whether PlanD would recommend approval if applications were submitted by the same applicants for those sites which, if approved, would likely facilitate the formation of the expected new village clusters, or if the planning permissions were extended.

25. In response, with the aid of a visualiser, Ms Margaret H.Y. Chan, DPO/STN, PlanD made the following main points:

- (a) all those approved SH developments were not implemented yet. As per LandsD's advice, while the SH grants for applications No. A/NE-LYT/604 to A/NE-LYT/616 had been approved by DLO, there would still be some procedures and issues that needed to be undertaken or resolved before the construction works could take place. For applications No. A/NE-LYT/808 and A/NE-LYT/665 to 667, the SH grants were still under processing;

- (b) application for NTEH/SH with previous planning permission lapsed would be considered on its individual merits. Major considerations of applications No. A/NE-LYT/604 to A/NE-LYT/616 were set out in paragraph 22 above. In general, PlanD would take into account the planning history (including whether there was previously approved application associated with the application site), departmental and public comments, land availability within the “V” zone for SH development, whether the site was an infill site amongst existing NTEHs/SHs, and whether the associated SH grant was at an advance stage, etc. as set out in the Interim Criteria. At this juncture, the new village clusters in the vicinity of the Site, as previously expected, were yet to be in place and hence, the Site could not be considered as an infill site amongst existing NTEHs/SHs which warranted sympathetic consideration of the application in accordance with the Interim Criteria; and
- (c) the planning permissions for applications No. A/NE-LYT/604 to A/NE-LYT/616 had been extended to 2025.

26. A Member asked about the land status of the areas occupied by temporary structures in the immediate surroundings of the Site and considered that those areas would be more suitable for SH developments if they were private land. In response, Ms Margaret H.Y. Chan, DPO/STN, PlanD said that the temporary structures, which were mainly squatters for domestic purpose, were situated on private land and no applications for SH development or SH grants were received at the moment. Besides, those structures were merely squatters and hence, their existence would not render the Site an infill site amongst existing NTEHs/SHs as specified in the Interim Criteria.

27. At the invitation of the Chairperson, the Secretary recapitulated the major considerations for sympathetic consideration under criterion (d) of the Interim Criteria. In considering applications for NTEHs/SHs with previous planning permission lapsed, one of the specific circumstances that warranted sympathetic consideration was whether the relevant SH grant was already at an advance stage, for which the application was submitted by the same applicant was one of major indicators. As pointed out by Ms Jane K.C. Choi, Deputy Director/General, LandsD, the processing of the SH grant had to go through various procedures which could be time intensive. If the applicant for the application being considered was the same



as that for the previously approved application, the SH grant might have already gone through the initial stages. On the progress of SH grant application, LandsD's advice would be sought. For the specific circumstances in relation to infill sites, consideration was given to whether the application site was surrounded by existing NTEHs/SHs. That said, in approving the previous application, consideration had been given to the fact that there were SH applications, all with previous applications submitted by the same applicants, in the vicinity of the Site approved by the Board just a few months ago and it was reasonable to envisage that new village clusters were forming. According to the records, the SH grants for the sites covered by planning approvals to the south of the Site had been approved by DLO. However, the construction works were yet to commence nor the new village clusters formed, which might be due to various reasons as previously explained by Ms Jane K.C. Choi, Deputy Director/General, LandsD.

28. A Member asked whether the consideration of "application submitted by a different applicant would be regarded as not at an advance stage" was documented and made known to the public. In response, the Secretary explained that the emphasis was on whether the SH grant was at an advance stage, and such information was stated in the Interim Criteria

29. In response to a Member's question on the validity period of the planning permission, the Secretary said that normally a planning permission for permanent development would be four years and it would lapse afterwards. The applicant could apply for extension for commencement of development for a maximum period of another four years.

30. A few Members enquired about the current position of the SH grant application for the Site and whether it could be regarded as being at an advance stage. In response, Ms Jane K.C. Choi, Deputy Director/General, LandsD said that confirmation of the applicant's status as an indigenous villager was still subject to verification and objections were received. Given the said situation and the whole SH grant process involved, it could be regarded as in a relatively initial rather than advance stage.

31. Two Members raised the following questions to the applicant:

- (a) noting the public comments from the Chairman, First Vice-chairman and Vice-chairman of the Fanling District Rural Committee (FDRC) objecting to the status of the applicant being an indigenous villager, the relationship between

Lau Shui Heung and Kan Tau Tsuen; and

- (b) noting the applicant's claim that he had submitted an application for SH grant in 2021, any record on the processing of the SH grant application or the meeting between the applicant and DLO.

32. In response, Mr Lee Lok Han, the applicant, Mr Lee Koon Yeung, the applicant's father, and Mr Man Ka Chai, the applicant's representative made the following main points:

- (a) the previous landowner of the Site was an indigenous villager of Hok Tau, while the applicant and his father were indigenous villagers of Lau Shui Heung. The three villages, namely Hok Tau, Lau Shui Heung and Kan Tau Tsuen, were located in close proximity of each other and could be considered as villages within the same cluster. It was reiterated that the applicant was an indigenous villager and declaration of such status was completed on 15.6.2021. The applicant's father could clarify with FDRC in that regard; and
- (b) there was no official record of meeting between the applicant and DLO. After the rejection of the planning application for SH development at Lau Shui Heung, the applicant acquired the Site in 2020 and submitted the application for SH grant in 2021. The applicant had subsequently approached DLO for five times between 2021 and 2023 and he was given to understand that the process was impeded due to the pandemic situation. As the declaration of indigenous villager status had already been completed on 15.6.2021, the processing of the SH grant should be considered at an advance stage.

33. A Member sought confirmation on whether SH developments should be confined within the "V" zone as far as possible, rather than spreading over to other zone such as "Agriculture" ("AGR") zone, if there was no shortage of land for SH developments within the "V" zone. In response, the Chairperson confirmed the prevailing practice of the Board that if there was still land available for SH development within the "V" zone, a more stringent approach would normally be adopted, and applications for SH developments outside the "V" zone would not be supported unless there were specific circumstances which warranted sympathetic consideration. For instance, the SH applications within the "AGR" zone to the south of the Site

approved in 2017, for which the planning permissions were now extended to 2025, were first approved in 2012 before the Board's formal adoption of a more cautious approach since August 2015. At that time in 2012, there was shortage of land for SH development within the "V" zone based on the overall SH demand. In 2017, the applications were submitted by the same applicants and sympathetic consideration, amongst others, was given in approving those applications. If those applications were submitted by different applicants in 2017, a more stringent approach should have been adopted and sympathetic consideration might not have been given.

34. Two Members asked about the figures on SH demand and land availability when the previous application and those applications to the south of the Site were approved in 2017. In response, Ms Margaret H.Y. Chan, DPO/STN PlanD, with the aid of a PowerPoint slide, presented the relevant SH demand and land availability for meeting SH demand in Kan Tau Tsuen. For applications No. A/NE-LYT/604 to A/NE-LYT/616, the land available (about 2.32 ha for 92 SHs) was sufficient to meet the outstanding SH applications of 74. But if the number of outstanding applications and the 10-year SH demand forecast were taken into account as per the situation in 2012 when those applications were first approved, there would be shortage of land for meeting the SH demand. For the previous application at the Site, consideration was given that there were approved SH applications at different stages of development nearby, despite there being no shortage of land for SH developments within the "V" zone under the more cautious approach.

[Professor Bernadette W.S. Tsui left the meeting during the question and comment session.]

35. 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

36. To facilitate the discussion, the Chairperson invited the Secretary to recapitulate the background and considerations of the relevant SH applications and the major issues involved,

as summarised below:

- (a) before the adoption of a more cautious approach in 2015, in considering whether there was a general shortage of land to meet the SH demand, both the number of outstanding SH applications provided by LandsD and the 10-year SH demand forecast provided by IIR were taken into account. Since the Board's formal adoption of a more cautious approach in August 2015, more weighting had been put on the number of outstanding SH applications provided by LandsD as the 10-year SH demand forecast by IIR was difficult to be verified. If the land available for SH development within the "V" zone was adequate to meet the outstanding SH applications, it was considered that there was no shortage of land available for SH development and normally favourable consideration would not be given to applications outside the "V" zone;
- (b) for the cluster of SH applications (i.e. No. A/NE-LYT/473 to A/NE-LYT/485) to the south of the Site (sites hatched orange on Plan A-2a of the Paper), they were approved by RNTPC in 2012 on the ground, amongst others, that there was a shortage of land within the "V" zone to meet the overall SH demand. In 2017, when considering those SH applications (i.e. No. A/NE-LYT/604 to A/NE-LYT/616), despite that there was sufficient land to cater for the outstanding SH applications under the more cautious approach, sympathetic consideration was given by RNTPC to approve those applications, taking into account, amongst others, that those sites were submitted by the same applicants as per the previously approved applications. This reflected that the processing of SH grant applications was in an advance stage, and it was reasonable to allow more time for the process to be completed. The SH grants for those sites were subsequently approved by DLO, but the approved SHs were yet to be in place;
- (c) the three SH applications to the north of the major cluster (highlighted in green on Plan A-2a of the Paper) were under similar circumstances in that there was a previous planning permission (No. A/NE-LYT/545) in 2014 and sympathetic consideration was given to approve the subsequent applications (No. A/NE-LYT/665 to 667) in 2018. The SH grants for those sites were still being

processed by DLO and the approved SHs were yet to be in place; and

- (d) in 2017, RNTPC approved the previous application at the Site, taking into account that there were approved SH applications nearby and new village clusters were expected to be formed in the locality. There was no previous planning permission associated with the Site at that time and hence, the sympathetic consideration under criterion (d) of the Interim Criteria was not applicable to the previous application at that time. For the current application, as there was no shortage of land for SH developments within the “V” zone under the more cautious approach, the sympathetic or favourable considerations set out in criteria (a) and (b) of the Interim Criteria were not applicable. Regarding criterion (d) of the Interim Criteria for application with previous planning permission lapsed, as the current application was submitted by a different applicant, the processing of SH grants could hardly be considered at an advance stage. Besides, the new village clusters previously expected were still not yet formed and the areas to the immediately north, east and south of the Site were occupied by squatter structures. Hence, the Site could not be considered an infill site amongst existing NTEHs/SHs. In view of the above and the fact that there was no shortage of land within the “V” zone for SH development, sympathetic or favourable consideration under various assessment criteria in the Interim Criteria were not applicable for the current application.

37. Majority of Members agreed with PlanD’s recommendation of not approving the application and they had the following major views:

- (a) the Site was the subject of a previous planning permission which lapsed in 2021. While the applicant might have a legitimate expectation for approval of the current application given the previous planning permission, the sympathetic consideration under the Interim Criteria for consideration of application for NTEH/SH could hardly be applied for the current application;
- (b) the application was not submitted by the same applicant from the previous application approved in 2017. Sympathetic consideration in that regard should only be given to the same applicant who had endeavoured to take forward the

approved SH developments and when more time was required for processing the SH grant application. The processing of the relevant SH grant for the current application submitted by a different applicant could not be considered as being at an advance stage;

- (c) the new village clusters previously expected to be formed in 2017 with the approved SH applications to the south of the Site were still not yet formed. Hence, the Site being surrounded by vacant land and temporary squatter structures could hardly be considered an infill site amongst existing NTEHs/SHs;
- (d) under the more cautious approach, there was no shortage of land for SH development within the “V” zone. As a prevailing planning principle, it is considered more appropriate to concentrate the SH development within the “V” zone and such principle should be upheld for more orderly development pattern, efficient use of land and provision of infrastructure and services;
- (e) if the current application was approved, there was concern if the floodgate would be opened for similar applications without meeting the Interim Criteria considering that there was no shortage of land for SH development within the “V” zone; the application site was not considered an infill site amongst existing NTEHs/SHs; and the processing of the SH grant was not at an advance stage; and
- (f) it was uncertain why the applicant did not clarify with the FDRC about his status being an indigenous villager before submitting the current application.

38. A few Members expressed that sympathetic consideration might be given to approve the application and their major views were as follows:

- (a) if there was a new application for SH development in the vicinity of the Site, such as the private land currently occupied by temporary structures, a more stringent approach should be adopted in considering such application. However, there was a previous planning permission associated with the Site and just that the current application was submitted by a different applicant;

- (b) given the previous planning permission, the Site was not considered unsuitable for SH development. If the applicant of the previous application had taken forward the approved SH as scheduled, there might already have been an SH built on the Site; and
- (c) with regard to the surrounding context, despite the approved SH applications to the south of the Site being yet to be in place, as SH grants for most of those sites were already approved by DLO and the planning permissions were extended to 2025, the conditions for the implementation of those approved SH developments were more favourable compared to the situation in 2017. Given that there was no change in the Interim Criteria, it was considered that similar consideration for approving the previous application, i.e. the presence of approved SH applications at different stages of development nearby, should also be applicable for the current application. At the same time, it was not clear whether the Site could not be considered an infill site.

39. At the invitation of the Chairperson, Ms Jane K.C. Choi, Deputy Director/General, LandsD made the following main points for Members' reference:

- (a) according to the applicant, he had been invited to attend interviews and made a declaration on his status as an indigenous villager. Normally, those were the standing procedures amongst the initial stages of the SH grant process. Yet objections were received and hence, the processing of the SH grant was in a relatively early stage if it had to be ruled;
- (b) concerning the status of the applicant being an indigenous villager, District Officer (North) had clarified in his comments on the current application that the Chairman, 1<sup>st</sup> Vice-chairman and Vice-chairman of the FDRC objected to the application mainly on the ground that the applicant was not an indigenous villager of Kan Tau Tsuen. The SH grant being processed involved a cross-village SH application and the local objections of this nature might take time to resolve; and

- (c) with the SH grants approved for the major cluster of approved SH applications to the south of the Site, there was relatively a higher opportunity that the SH cluster developments would be implemented when compared to processing of the previous planning application of the Site in 2017.

40. On the interpretation of criterion (d) of the Interim Criteria, Mr Ivan M.K. Chung, Director of Planning, remarked that for application with previous planning permission lapsed, one of the specific circumstances warranting sympathetic consideration was that the application site was an infill site amongst existing NTEHs/SHs. The emphasis was on the “existing” NTEHs/SHs. Unlike applications No. A/NE-LYT/665 to 667 which were the subjects of previous planning permissions, the previous application at the Site was a new application and RNTPC had considered that, amongst others, there were approved SH applications at different stages of development nearby and approved the application in 2017. Nevertheless, noting that some SH developments with planning approvals had not been realised, RNTPC in recent years inclined to adhere more to the intent of criterion (d) as laid down in the Interim Criteria, i.e. a site could be considered an infill site only if it was located amongst existing NTEHs/SHs. For the current application, as shown in the aerial photo, most of the areas in the vicinity of the Site were vacant without any SHs being constructed or completed. The Board should follow how “infill” site was interpreted under the Interim Criteria.

41. Three Members had the following general views and suggestions:

- (a) it should be made clear to the public that LandsD or other relevant government departments would not give advice on whether or not the applicant should acquire a certain piece of land for SH development;
- (b) it might be helpful to provide clear information on at which stage the processing of SH grant could be considered as being at an advance stage; and
- (c) consideration could be given to adopting the Chinese wording of 「收緊了考慮準則」 instead of 「採取更審慎態度」 as currently adopted to describe the Board’s adoption of “a more cautious approach” in considering applications for NTEH/SH developments.



42. As Members had no further points to make, the Chairperson concluded that the majority of Members did not support the application and their major views were set out in paragraph 37 above. As the current application was not submitted by the same applicant as the previous planning permission, the Site was not an infill site amongst existing NTEHs/SHs, the processing of the SH grant was not at an advance stage and land was still available within the “V” zone for SH development, the current application should not be approved.

[Professor Roger C.K. Chan, Professor Jonathan W.C. Wong, Dr C.M. Cheng, Messrs Stanley T.S. Choi and Ricky W.Y. Yu left the meeting during deliberation.]

43. 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 “Agriculture” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention. The application site is not considered an infill site among existing New Territories Exempted Houses/Small Houses, nor is the processing of the Small House grant at an advance stage; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Kan Tau Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

**Sai Kung and Island District**

**Agenda Item 4**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/SK-TMT/78

Proposed House (New Territories Exempted House - Small House) in “Green Belt” Zone, Lots 19 S.A and 220 S.A in D.D. 252, Tso Wo Hang, Sai Kung  
(TPB Paper No. 10971)

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[The item was conducted in Cantonese.]

**Presentation and Question Sessions**

44. The following representative of the Planning Department (PlanD) was invited to the meeting at this point:

Mr Walter W.N. Kwong	- District Planning Officer/Sai Kung and Islands (DPO/SKIs)
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45. The Chairperson extended a welcome and informed Members that the applicant and his representative had indicated that they would not attend the meeting. She then invited PlanD’s representative to brief Members on the review application.

46. With the aid of a PowerPoint presentation, Mr Walter W.N. Kwong, DPO/SKIs, PlanD briefed Members on the background of the review application including the application site and the surrounding area, the applicant’s proposal and justifications, the decision of 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. 10971. As there had been no major change in planning circumstances since the consideration of the s.16 application, PlanD maintained its previous view of not supporting the application.

47. As the presentation of PlanD’s representative had been completed, the Chairperson invited questions from Members.

48. Members had no question to raise. The Chairperson thanked PlanD's representative for attending the meeting. He left the meeting at this point.

#### Deliberation Session

49. The Chairperson remarked that the applicant did not attend the review hearing. Given that there had been no major change in planning circumstances since the consideration of the application by the RNTPC, Members agreed with the decision of the RNTPC and that the review application should be rejected.

50. After deliberation, the Board decided to reject the application for the following reasons:

- “(a) the proposed development is not in line with the planning intention of the “Green Belt” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from such planning intention;
- (b) the proposed development is not in line with the Town Planning Board Guidelines No. 10 for ‘Application for Development within the Green Belt Zone under Section 16 of the Town Planning Ordinance’ in that there are no exceptional circumstances to justify the proposed development, which may affect the existing natural landscape of the surrounding area; and
- (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Tso Wo Hang. It is considered more appropriate to concentrate the proposed Small House development within the

“V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.”

**Agenda Item 5**

[Open Meeting]

**Any Other Business**

[The item was conducted in Cantonese.]

51.           There being no other business, the meeting was closed at 5:05 p.m.