

TOWN PLANNING BOARD

Minutes of 406th Meeting of the Rural and New Town Planning Committee held at 2:30 p.m. on 6.11.2009

Present

Director of Planning
Mrs. Ava S.Y. Ng

Chairperson

Mr. Alfred Donald Yap

Vice-chairman

Mr. David W.M. Chan

Professor David Dudgeon

Dr. C.N. Ng

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Dr. James C. W. Lau

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Chief Traffic Engineer/New Territories West,
Transport Department
Mr. Y.M. Lee

Assistant Director (Environmental Assessment),
Environmental Protection Department
Mr. C.W. Tse

Assistant Director/New Territories, Lands Department
Mr. Simon K.M. Yu

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

Secretary

Absent with Apologies

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor Paul K.S. Lam

Professor Edwin H.W. Chan

Assistant Director (2), Home Affairs Department
Mr. Andrew Y.T. Tsang

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Miss Chu Hing Yin

Town Planner/Town Planning Board
Miss Alice Y.Y. Cheung

Agenda Item 1

Confirmation of the Draft Minutes of the 405th RNTPC Meeting held on 23.10.2009

[Open Meeting]

1. The draft minutes of the 405th RNTPC meeting held on 23.10.2009 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

(i) Town Planning Appeal Decision Received

Town Planning Appeal No. 1 of 2009 (1/09)

Proposed 2-storey House in “Residential (Group D)” zone

Lot No. 1030, D.D. 221, Kap Pin Long New Village, Sai Kung

(Application No. A/SK-PK/158)

2. The Secretary reported that the subject appeal was against the Town Planning Board’s decision to reject on review an application (No. A/SK-PK/158) for a proposed 2-storey house at a site zoned “Residential (Group D)” (“R(D)”) on the Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP). The appeal was heard by the Town Planning Appeal Board (TPAB) on 10.9.2009 and dismissed on 28.10.2009 mainly on the following grounds:

[Ms. Maggie M.K. Chan arrived to join the meeting at this point]

- (a) the appellant had not submitted any justifications based on innovative design adapted to the characteristics of the appeal site to support the proposed minor relaxation. The only justification offered was related to the personal circumstances of the appellant which, based on the principles of planning law, were not regarded as considerations relevant to the planning application;
- (b) the site was not ideally suited to a residential development. In addition, the proposed house would necessitate the closing of a footpath and the provision of

an alternative footpath. However, no firm proposal for the alternative footpath with the approval of the relevant departments and to the satisfaction of the affected local residents had been provided. The Appeal Board could not agree that the house of the proposed dimensions was a desirable development in the “R(D)” zone; and

- (c) allowing the appeal would set an undesirable precedent for similar applications within the “R(D)” zone.

3. Members noted that a copy each of the Summary of Appeal and the TPAB’s decision dated 28.10.2009 had been sent to Members for reference on 5.11.2009.

(ii) Appeal Statistics

4. The Secretary reported that as at 6.11.2009, a total of 22 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows :

Allowed	:	24
Dismissed	:	111
Abandoned/Withdrawn/Invalid	:	134
Yet to be Heard	:	22
<u>Decision Outstanding</u>	:	<u>0</u>
Total	:	291

(iii) Reference Back of Approved Plans

5. The Secretary reported that on 3.11.2009, the Chief Executive in Council referred the following approved Outline Zoning Plans (OZPs) to the Town Planning Board for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance and the reference back of the OZPs would be notified in the Gazette on 13.11.2009:

- (i) Kwun Tong North OZP No. S/K14N/11;
- (ii) So Kwun Wat OZP No. S/TM-SKW/9;

- (iii) Tung Chung Town Centre Area OZP No. S/I-TCTC/16; and
- (iv) Ting Kok OZP No. S/NE-TK/15.

Sai Kung and Islands District

[Mrs. Margaret W.F. Lam, Miss Erica S.M. Wong, and Ms. Ann O.Y. Wong, Senior Town Planners/Sai Kung and Islands (STPs/SKIs), were invited to the meeting at this point.]

[Ms. Anna S.Y. Kwong and Dr. C.N. Ng arrived to join the meeting at this point.]

Agenda Item 3

[Open Meeting]

Proposed Amendments to the

Approved South Lantau Coast Outline Zoning Plan No. S/SLC/14

(RNTPC Paper No. 18/09)

Presentation and Question Sessions

6. With the aid of a Powerpoint presentation, Mrs. Margaret W.F. Lam, STP/SKIs, briefed Members on the proposed amendments to the approved South Lantau Coast Outline Zoning Plan (OZP) as detailed in the Paper and covered the following main points:

[Messrs. Y.M. Lee and Rock C.N. Chen arrived to join the meeting at this point.]

Background

- (a) on 1.8.2008, the Committee considered a section 12A planning application, No. Y/SLC/1, which proposed to rezone a site to the west of Lo Uk Tsuen from “Green Belt” (“GB”) to “Residential (Group C)1” with a maximum plot ratio of 0.6664, a maximum site coverage of 33.33% and a maximum building height of 2 storeys (7.6m) on the approved South Lantau Coast OZP No. S/SLC/14. After consideration, the Committee decided to

partially agree to the application by rezoning the application site from “GB” to “Residential (Group C)” (“R(C)”) with a maximum plot ratio of 0.4, a maximum site coverage of 25% and a maximum building height of 2 storeys (7.6m), which was in line with the low-density residential development of the area and was compatible with its surrounding environment;

Proposed Amendments

- (b) rezoning of a site of about 847m² on the South Lantau Coast OZP from “GB” to “R(C)” with a maximum plot ratio of 0.4, a maximum site coverage of 25% and a maximum building height of 2 storeys (7.6m) to reflect the Committee’s decision on Application No. Y/SLC/1;
- (c) proposed amendments to the Notes taking into account the amendment of the Chinese translation of the term “Flat” in the latest Revised Master Schedule of Notes; and
- (d) revision of the Explanatory Statement of the OZP taking into account the proposed amendments and the latest position and planning circumstances of the OZP;

Public Consultation

- (e) the proposed amendments had been circulated to relevant Government departments and no adverse comment had been received; and
- (f) the South Lantau Rural Committee was consulted on the proposed amendments on 24.9.2009. No adverse comment had been received. The Islands District Council would be consulted on 14.12.2009 prior to or during the gazette of the OZP for the proposed amendments.

7. Members had no question on the proposed amendments.

Deliberation Session

8. After deliberation, the Committee decided that :
- (a) the proposed amendments to the approved South Lantau Coast Outline Zoning Plan (OZP) No. S/SLC/14 as shown on the draft OZP No. S/SLC/14A at Annex II of the Paper and the proposed amendments to the draft Notes at Annex III of the Paper were suitable for exhibition for public inspection under section 5 of the Town Planning Ordinance;
 - (b) the revised Explanatory Statement (ES) for the draft South Lantau Coast OZP No. S/SLC/14A at Annex IV of the Paper be adopted as an expression of the planning intention and objectives of the Board for various land use zones on the draft OZP No. S/SLC/14A; and
 - (c) the revised ES was suitable for exhibition together with the draft OZP No. S/SLC/14A (to be renumbered to S/SLC/15 upon exhibition) and issued under the name of the Board.

Agenda Item 4

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/I-TCTC/36 Proposed Amendment to the Approved Master Layout Plan from Religious Institution (Church) Use to Proposed Shop and Services at the Podium Ground Level at Tung Chung Town Lot 3 in “Comprehensive Development Area” (“CDA”) zone, Tung Chung Town Centre
(RNTPC Paper No. A/I-TCTC/36)

Presentation and Question Sessions

9. With the aid of a Powerpoint presentation, Mrs. Margaret W.F. Lam, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed amendment to the approved Master Layout Plan (MLP) for the CDA site at Tung Chung Town Lot (TCTL) 3, which involved the change of use of part of the area at the podium ground level from religious institution (church) use to proposed shop and services use;
- (c) departmental comments – The District Lands Officer/Islands (DLO/Is) advised that the applicant should apply to DLO/Is for consent or waiver to allow the use of ‘services’ within the application premise. While the Chief Building Surveyor/New Territories East 2 & Rail (CBS/NTE 2 & Rail) had no in-principle objection to the application, he advised that the applicant should submit building plans for approval in respect of alterations and additions works;
- (d) one public comment objecting to the application was received during the statutory publication period. The grounds of objection included that the “church use portion” was previously reserved for primary school use in the MLP; there was no indication of insufficient provision of commercial accommodation; compliance with conditions of the lease held by TCTL 3 was not a valid reason to justify the proposed amendment; the expected increase in the number of pedestrians and goods delivery vehicles would inevitably impose traffic burden on pedestrian pavement and roads in the surrounding area; and there were very limited choices of commercial development for church users in Tung Chung North. The District Officer (Islands) (DO/Is) consulted the Owners’ Sub-committees of the private residential developments in the neighbourhood of the application premises and four District Councilors. The majority of the consulted parties had raised objection to the application. Some of the objection reasons were similar to those of the public comment and the other reasons included the lack of details on the kinds of ‘shop and services’ and its associated works; and the consultation period was not long enough for the religious institution and organisation to express their opinion;

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. The proposed scheme was largely the same as the previously approved scheme under Application No. A/I-TCTC/33, the total commercial GFA for TCTL 3 had not changed and remained as 2,500m². The proposed shop and services use was compatible with the proposed commercial uses and the existing retail shops on the same floor and the surrounding commercial and residential developments. With its small scale, it would unlikely cause any significant adverse traffic, environmental and infrastructural impacts on the locality. Relevant Government departments had no comment / no in-principle objection to the application. Appropriate approval conditions related to the proposed change had been recommended. To address the comments from DLO and BD, advisory clauses to advise the applicant to apply for consent or waiver and to submit general building plans for the proposed use were suggested. Since the approval conditions for the whole CDA were yet to be implemented in full, the applicant would be advised to note that the approval conditions and advisory clauses under the previously approved scheme which still remained valid. Regarding the commenter's concerns on the lack of church in Tung Chung and Island, there were 4 existing religious institutions in Tung Chung and a site in Area 58 was reserved for church cum kindergarten use in Tung Chung.

10. Members had no question on the application.

Deliberation Session

11. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.11.2013, 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. The permission was subject to the following conditions :

- (a) the submission and implementation of a revised Master Layout Plan (MLP),

taking into account condition (b), to the satisfaction of the Director of Planning or of the TPB; and

- (b) the associated parking and loading/unloading spaces should be provided to cater for the traffic generation arising from the proposed change to the satisfaction of the Commissioner for Transport or of the TPB.

12. The Committee also agreed to advise the applicant the following :

- (a) the approved MLP, together with the set of approval conditions, would be certified by the Chairman of the TPB and deposited in the Land Registry in accordance with section 4A(3) of the Town Planning Ordinance. Efforts should be made to incorporate the relevant approval conditions into a revised MLP for deposition in the Land Registry as soon as possible;
- (b) to submit application to the Lands Department under the lease for consent or waiver to allow the proposed 'services' use within the application premises;
- (c) to submit general building plans to the Buildings Department for approval in respect of the alterations and additions works; and
- (d) to note the previous approval conditions and advisory clauses under Application No. A/I-TCTC/33, which were still valid.

Agenda Item 5

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/I-LI/13 Proposed Public Utility Installation (Telecommunications Radio Base Station), Public Utility Pipeline (Telephone Conduit and Power Cables), Excavation of Land (for laying about 1.2m long Telephone Conduit and about 90m long Power Cables) and Provision of about 100m long Maintenance Footpaths
in “Conservation Area” zone,
Government Land, Ling Kok Shan, Lamma Island
(RNTPC Paper No. A/I-LI/13)

Presentation and Question Sessions

13. Miss Erica S.M. Wong, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed public utility installation (telecommunications radio base station (TRBS)), public utility pipeline (telephone conduit and power cables), excavation of land (for laying about 1.2m long telephone conduit and about 90m long power cables) and provision of about 100m long maintenance footpaths;

- (c) departmental comments – the comments from the key Government departments were:
 - the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD) advised that he had received an application from the applicant for acquiring Government land for construction of a radio base station (RBS) at Ling Kok Shan by way of Short Term Tenancy (STT), which could not be processed further at this stage unless and until the applicant could comply with the requirements to obtain a valid

planning permission from the Town Planning Board (TPB), an Environmental Permit from the Environmental Protection Department (EPD) and the approval from the Secretary for Development for permanent exemption from airport height restriction for the proposed RBS at Ling Kok Shan;

- the Director-General of the Office of the Telecommunications Authority (DG, OFTA) fully supported the application as the proposed installation of TRBS was in line with the Government policy to permit operators to use Government properties and land in rural area for the provision of wireless services. The mobile coverage survey conducted by DG, OFTA on 16.10.2009 reconfirmed that the mobile coverage in the southern part of Lamma Island was very poor and some of the area had no mobile coverage by any operator. The proposed TRBS would not only improve the mobile telephone services in these areas but also the waters in the southern part of Hong Kong Territory. DG, OFTA was of the view that the proposed TRBS was an essential infrastructure project with overriding public interest;
- the Director of Health (DH) advised that according to the World Health Organization (WHO), there was so far no convincing scientific evidence to show that low level radiofrequency signals from RBSs would cause adverse health effects to humans if the operation of the proposed base station met the relevant sets of exposure limits recommended by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Nevertheless, WHO considered open communication and discussion with stakeholders during the planning stage could help create public understanding and greater acceptance of a new facility;
- the Director-General of Civil Aviation (DG of CA), after conducting a thorough assessment, had no objection to the proposal;
- the Director of Agriculture, Fisheries and Conservation (DAFC), the

Director of Environmental Protection (DEP) and the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had no comment / no objection to the application; and

[Mr. Y.K. Cheng arrived to join the meeting at this point.]

- (d) two public comments were received during the statutory publication period. One commenter agreed to the proposal provided that the project would not have any impact on the residents, would not cause damage to the natural environment and would be carried out in a conservation way. The other commenter objected to the proposal on landscaping ground and doubted if the proposed installation was an essential infrastructure project. District Officer (Islands) had consulted the Chairman of Lamma Island (South) Rural Committee, a District Councillor of Lamma and 7 village representatives of Lamma South and no local objection was received; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 10 of the Paper. The proposed installation of TRBS was in line with the Government policy to improve the mobile telephone service in the southern part of Lamma Island and could be considered as essential telecommunication facility with overriding public interest. According to the Applicant, site search had been carried out and the site was identified as the best location to meet the technical criteria in terms of coverage of service, altitude, environmental impact and availability of utility support. The OFTA had no adverse comment on the proposal because it could improve the mobile phone service in that area. The proposed development would not pose aviation safety to the users of the helipad located about 35m to its north. According to the applicant, care would be taken to protect the rare and precious plant species near the site during construction; location of the proposed TRBS and maintenance footpaths would avoid affecting the rare plant species or trees in the area; all disturbed area would be restored and planted with species to match with the surrounding areas; and measures

would be taken to minimize the risk of bird collision to address DAFC's concern. Relevant Government departments had no adverse comments on the application provided that relevant practices and other statutory requirements were complied with. With regard to the public comment on the landscape of South Lamma, the CTP/UD&L, PlanD had no objection to the application and opined that the existing landscape resources and landscape character of the area would not be adversely affected by the proposed installation. Relevant approval condition was recommended for the planning approval to address the landscape concern. In response to the commenter's opinion on coverage, DG, OFTA considered the proposal an essential telecommunications facility.

14. Mr. Y.M. Lee suggested to add TD's comment as stated in paragraph 8.1.8(b) of the Paper as an advisory clause for the planning approval to remind the applicant that TD would not manage the proposed maintenance footpaths. In response, Miss Erica Wong advised that, upon obtaining the planning approval, the applicant would need to obtain approval from DLO/Is for a short term tenancy of the Government land for the proposed TRBS and related structures/facilities, including the proposed maintenance footpaths. At that stage, relevant lease conditions would be imposed to govern the applicant's responsibility on the maintenance and management of all the structures/facilities, including the maintenance footpaths, under the approved application. After discussion, Members agreed to include an additional advisory clause to the planning approval as per TD's request.

Deliberation Session

15. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.11.2013, 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. The permission was subject to the following conditions :

- (a) The submission of a vegetation survey and implementation of the mitigation measures identified therein to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the TPB;

- (b) the submission and implementation of visual impact mitigation measures to the satisfaction of the Director of Planning or of the TPB;
- (c) the submission and implementation of landscaping proposal to the satisfaction of the Director of Planning or of the TPB;
- (d) the submission and implementation of the maintenance footpaths to the satisfaction of the Director of Planning or of the TPB; and
- (e) the restoration of the disturbed areas after completion of the proposed works to the satisfaction of the Director of Planning or of the TPB.

16. The Committee also agreed to advise the applicant the following :

- (a) to note the Director of Environmental Protection's comments that an Environmental Permit (EP) should be obtained for the proposal before commencing the construction. The design, construction and operation of the proposal should be in accordance with the conditions imposed in the EP;
- (b) to note the Head of Geotechnical Engineering Office, Civil Engineering and Development Department's comments that the trench excavation (including temporary support and reinstatement) for the proposed power cables should be constructed in accordance with the "Guide to Trench Excavation (Shoring Support and Drainage Measures)", February 2003 Edition, published by the HKSAR Government;
- (c) to note the Director of Agriculture, Fisheries and Conservation's advice that since intermittent light/strobe light system would be used for the omni-directional red obstacle lights and no guy wire would be installed to minimize the potential risk of bird collision, in view of the small scale of works, other measures like the proposed "bird scares" or "visual markers" might not be necessary; and

- (d) to note the Director of Health's comments that the proposed development should comply with the relevant code of practice which followed the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines and such compliance be verified by direct onsite measurements upon commissioning of the telecommunications radio base station; and
- (e) to note the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD)'s comment that TD would not manage the proposed maintenance footpaths.

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-CWBS/8 Proposed House
(New Territories Exempted House (NTEH) - Small House)
in "Village Type Development" and "Green Belt" zones,
Lots 486ARP and 486D and Adjoining Government Land in D.D. 225,
Leung Fai Tin, Sai Kung
(RNTPC Paper No. A/SK-CWBS/8)

17. The Secretary reported that the World Wide Fund for Nature (WWF) Hong Kong had submitted comments on the application. Professor David Dudgeon had declared an interest in this item as he was a member of Mai Po Management and Development Committee of WWF. Professor Dudgeon left the meeting temporarily for this item.

Presentation and Question Sessions

18. Miss Erica S.M. Wong, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed house (New Territories Exempted House (NTEH) - Small House);
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had objection to the application for the reasons of encroachment onto the “Green Belt” (“GB”) zone causing disturbance and removal of vegetation in the “GB” area, and the impact on the existing vegetation arising from the actual space required for circulation and building construction works which would extend beyond the application site into the “GB”. The Geotechnical Engineering Office (GEO) advised that the site was located below a steep natural hillside and objected to the application unless the applicant was prepared to undertake a Natural Terrain Hazard Study (NTHS) and the associated mitigation works as part of the development;
- (d) three public comments were received during the statutory publication period. One commenter objected to the application as it would lead to further encroachment onto the “GB” zone and unsustainable village plans into green areas. The second commenter was concerned about the impact of the building construction works and the possible need to fell two trees (*Ficus microcarpa* and *Ficus variegata*) along a nearby stream. It was suggested that tree felling should be avoided and the applicant should be required to leave the nearby stream, which was of conservation value, and the riparian vegetation in its close proximity untouched in both construction and operation phases. The third commenter raised concern on any unauthorized site formation and tree felling at the site prior to the application and suggested that the two *Ficus* trees be preserved and its surrounding areas should not be used as stockpiling of construction materials. This commenter also considered that small houses should be restricted within the “Village Type Development” (“V”) zone rather than spreading to the “GB” areas; the application was not in line with the planning intention of the “GB” zone; and approval of the application would lead to the loss of function and value of the “GB” zone. District Officer (Sai Kung) had no comment on the application; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. The proposed Small House development generally complied with the interim criteria for assessment of planning application for NTEH/Small House development in that sympathetic consideration might be given as more than 50% of the proposed Small House footprint fell within the “V” zone; the footprint entirely fell within the ‘village environs’ (‘VE’) of a recognized village; and there was a general shortage of land in meeting the demand for Small House demand in the Ha Yeung Village. The application site was located to the immediate north of an approved Small House site under Application No. A/DPA/SK-CWBS/3. It was considered not incompatible with the surrounding land uses and was in close proximity with the village proper of Ha Yeung Village. Appropriate approval conditions were recommended to address the comments of relevant departments. As regards the public comments on possible adverse impacts on landscape and the nearby stream, the Director of Environmental Protection had no in-principle objection and the Director of Agriculture, Fisheries and Conservation had no strong view against the application. Taking into account the local concern of preservation of trees in the vicinity of the site, the applicant would be advised to strictly confine the construction works within the site and implement good site practices and other appropriate measures to avoid disturbance to the nearby vegetation and adjoining stream.

19. Members had no question on the application.

Deliberation Session

20. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.11.2013, 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. The permission was subject to the following conditions :

- (a) the submission of a Geotechnical Planning Review Report and implementation of the necessary geotechnical remedial works identified therein, in respect of the slopes adjacent to the application site to the satisfaction of the Director of Civil Engineering and Development or of the TPB; and
- (b) the submission and provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

21. The Committee also agreed to advise the applicant the following :

- (a) to note the Director of Agriculture, Fisheries and Conservation's comment to avoid damage to the nearby trees and preserve the woodland to the west of the application site during the construction works of the development; and
- (b) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that, for the provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for construction, operation and maintenance of the inside services within the private lots to WSD's standards.

[Mr. Simon Yu left the meeting temporarily and Professor David Dudgeon returned to join the meeting at this point.]

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/171 Proposed House
 (New Territories Exempted House (NTEH) - Small House)
 in “Agriculture” zone,
 Lots 385RP and 386 RP in D.D. 244, Ho Chung, Sai Kung
 (RNTPC Paper No. A/SK-HC/171)

Presentation and Question Sessions

22. With the aid of a Powerpoint presentation, Ms. Ann O.Y. Wong, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) - Small House);
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application since the area was a piece of good agricultural land. Whilst the traffic impact of the proposed development was minimal, the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application for the reasons of setting an undesirable precedent with other similar developments within the “Agriculture” (“AGR”) zone and the cumulative traffic impact on the limited local road network in Ho Chung;

[Mr. Simon Yu returned to join the meeting at this point.]

- (d) two public comments were received during the statutory publication period which objected to the application because the application site was within the “Agriculture” (“AGR”) zone; the area lacked sustainable village layout for quality transport, road works, public facilities, amenities and public

spaces; and there were major concerns about the adverse traffic and infrastructure impacts. The District Officer (Sai Kung) advised that he had not received any local objection on the application. However, he had received complaints from village residents about the access blockage problem which had aroused grave concern from the local community; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. The application complied with the interim criteria for assessment of planning application for NTEH/Small House development in that the application site was located within the ‘village environs’ (‘VE’) and there was a general shortage of land in meeting Small House development in the “Village Type Development” (“V”) zone of Ho Chung Village and Nam Pin Wai Village. 23 similar Small House applications in Ho Chung Village had been approved in the “AGR” zone. Regarding the public comments concerning the provision of traffic and infrastructure impacts, AC for T/NT and other relevant departments had no objection to the application.

23. Members had no question on the application.

Deliberation Session

24. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.11.2013, 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. The permission was subject to the following conditions :

- (a) the provision of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (b) the submission and implementation of landscape proposal including tree

preservation proposal to the satisfaction of the Director of Planning or of the TPB.

25. The Committee also agreed to advise the applicant the following :
- (a) to note the comments of the Director of Water Supplies that for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicants should resolve any land matter associated with the provision of water supply and should be responsible for construction, operation and maintenance of the inside services within the private lots to Water Supplies Department's standards. The water main in the vicinity of the site could not provide the standard fire-fighting flow;
 - (b) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that as the site was only accessible by a narrow footpath, the applicant should not disturb any existing tree/vegetation along the footpath during construction stage; and
 - (c) to provide the Antiquities and Monuments Office (AMO) of Leisure and Cultural Services Department with sufficient time and let the staff of the AMO enter the application site to conduct an archaeological survey prior to the commencement of construction works.

Agenda Item 8

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/172 Proposed House
(New Territories Exempted House (NTEH) - Small House)
in "Agriculture" zone,
Lots 563 S.A, 563 S.C and 564 RP in D.D. 244, Ho Chung, Sai Kung
(RNTPC Paper No. A/SK-HC/172)

Presentation and Question Sessions

26. With the aid of a Powerpoint presentation, Ms. Ann O.Y. Wong, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) - Small House);
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the planning application since the area was a piece of good agricultural land. Whilst the traffic impact of the proposed development was minimal, the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application for the reasons of setting an undesirable precedence with other similar developments within the “Agriculture” (“AGR”) zone and the cumulative traffic impact on the limited local road network in Ho Chung;
- (d) two public comments were received during the statutory publication period. They objected to the application because the application site was within the “Agriculture” (“AGR”) zone; the area lacked sustainable village layout for quality transport, road works, public facilities, amenities and public spaces; and there were major concerns about the adverse traffic and infrastructure impacts. The District Officer (Sai Kung) advised that he had not received local objection on the application. However, he had been receiving complaints from village residents about the access blockage problem which had aroused grave concern from the local community; and

[Dr. James C.W. Lau left the meeting temporarily at this point.]

- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper.

The application complied with the interim criteria for assessment of planning application for NTEH/Small House development in that the application site was located within the ‘village environs’ (‘VE’) and there was a general shortage of land in meeting Small House development in the “Village Type Development” (“V”) zone of Ho Chung Village and Nam Pin Wai Village. 23 similar Small House applications in Ho Chung Village had been approved in the “AGR” zone. Regarding the public comments concerning the provision of traffic and infrastructure impact, AC for T/NT and other relevant departments had no objection to the application.

27. Members had no question on the application.

Deliberation Session

28. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.11.2013, 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. The permission was subject to the following conditions :

- (a) the provision of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (b) the submission and implementation of landscape proposal including tree preservation proposal to the satisfaction of the Director of Planning or of the TPB.

29. The Committee also agreed to advise the applicant the following :

- (a) to note the comments of the Director of Water Supplies that for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for

connection. The applicant should resolve any land matter associated with the provision of water supply and should be responsible for construction, operation and maintenance of the inside services within the private lots to Water Supplies Department's standards. The water main in the vicinity of the site could not provide the standard fire-fighting flow; and

- (b) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that to improve the landscape setting of the haphazard Small House development within the "Agriculture" zone, tree planting around the application site was highly recommended.

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-PK/168 Proposed Retail Shop
in "Residential (Group D)" zone,
1/F, Lot 762 RP in D.D. 215, Sun On Village, Sai Kung
(RNTPC Paper No. A/SK-PK/168)

Presentation and Question Sessions

30. Ms. Ann O.Y. Wong, STP/SKIs, referred to paragraph 6.2 of the Paper and informed Members that at the end of the second sentence should read "Hiram's Highway" but not "Po Tung Road". With the aid of a Powerpoint presentation, Ms. Ann Wong then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed retail shop on 1/F of a two-storey New Territories Exempted House (NTEH);
- (c) departmental comments – the Chief Building Survey/New Territories East, Buildings Department (CBS/NTE, BD) did not support the application as

the first floor of the subject NTEH was not provided with at least 2 required means of escape under the “Code of Practice for the Provision of Mean of Escape in case of Fire 1996” (“MOE code”) and that its structural design and construction was not supervised and certified by a registered structural engineer;

- (d) one public comment from a resident of Sun On Village was received during the statutory publication period. He objected to the application as the increased number of visitors would affect the tranquillity, security, residential nature and property value of the flats in Sun On Village. As none of the upper storeys of the buildings in the Village was in retail business, the approval of the application would set an undesirable precedent. The District Officer (Sai Kung) had no comment on the application; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessment made in paragraph 10 of the Paper. The application was not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone and no planning justifications and merits had been provided in the submission to merit a departure from the planning intention. CBS/NTE, BD did not support the application from the fire safety and structural safety points of view. There was no information in the submission to demonstrate that the application premises was suitable for the proposed retail use from structural safety and fire safety points of view. No similar application had been approved in the same “R(D)” zone. Approval of the application would set an undesirable precedent for other similar applications, the cumulative impact of would have general implications within the “R(D)” zones in Sai Kung.

31. In response to a Member’s enquiry, Ms. Ann Wong said that retail use on the ground floor (G/F) of the subject NTEH was an always permitted use which would not require planning permission from the Town Planning Board.

32. Another Member referred to Plan A-4a of the Paper and pointed out that most of

the G/F units of NTEHs in the area were already taken up by non-residential uses such as vehicle repair workshops. This Member was of the view that should the Committee decide to reject the subject application, it would be more appropriate to reject it on its failure to comply with the fire safety regulations rather than on the need to preserve the residential character of the district. In response to the Chairperson's enquiry, Ms. Ann Wong clarified that the residential character referred to the entire environment of the "R(D)" zone. The planning intention and land use character of the area were, in the main, residential in nature, notwithstanding that retail uses were permitted on the G/F of the buildings. The main concern was to avoid the intrusion of non-residential use on the upper floors of the buildings which would alter the overall residential character of the area.

Deliberation Session

33. The Chairperson proposed to amend the rejection reason (a) suggested in paragraph 11.1 of the Paper to clearly reflect Members' view that the upper floors of the buildings in the subject "R(D)" zone should not be used for non-residential uses. Members agreed.

34. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed retail use on the upper floor of a New Territories Exempted House was not in line with the planning intention of the "Residential (Group D)" ("R(D)") zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It was also intended for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. No planning justifications and planning merit had been provided in the submission to merit a departure from the planning intention;
- (b) there was no information in the submission to demonstrate that the application premises was suitable for the proposed retail use from the structural safety and fire safety points of view; and

- (c) the approval of the application would set an undesirable precedent for other similar applications, the cumulative impact of which would have general implications within the “R(D)” zone in the Sai Kung district.

[Dr. James C.W. Lau returned to join the meeting and Ms. Maggie M.K. Chan left the meeting at this point.]

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-PK/169 Temporary Shop and Services use for a Period of 3 Years
 in an area shown as “Road”,
 G/F, Lot 1804 in D.D. 221, Sai Kung
 (RNTPC Paper No. A/SK-PK/169)

Presentation and Question Sessions

35. With the aid of a Powerpoint presentation, Ms. Ann O.Y. Wong, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary shop and services use for a period of 3 years;
- (c) departmental comments – the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had no adverse comment on the application but suggested to incorporate an “early surrender clause” as the approval condition to ensure that the area shown as ‘Road’ could be returned to the Government within a three-month period whenever necessary. The Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD) advised that the subject premises was inside the boundary of the project “Dualling of Hiram’s Highway from Marina

Cove to Sai Kung Town”, the target commencement date of which had not been fixed;

- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Sai Kung); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 10 of the Paper. The subject premises was located at the fringe of Sai Kung Town and was previously used as a retail shop selling furniture prior to the first gazettal of the Sha Kok Mei Interim Development Permission Area Plan on 12.10.1990. There were several retail shops and restaurants at the ground floor of the nearby village houses providing convenient retail and catering services for the neighbourhood. The proposed temporary use was not incompatible with the surrounding uses at ground level. The concerned Government departments had no adverse comments on/objection to the application. Approval of the application on a temporary basis for a period of 3 years would not frustrate the planning intention of the area designated as ‘Road’ on the Outline Zoning Plan as both AC for T/NT and CHE/NTE, HyD advised that the implementation programme of the road project had not been fixed and firmed up at present. To ensure that the road upgrading project would not be adversely affected by the proposed temporary use, a relevant approval condition was recommended requiring the applicant to terminate the operation within the application premises upon demand by the Government without any delay.

36. Members had no question on the application.

Deliberation Session

37. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.11.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the provision of fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.8.2010 ;
- (b) to terminate the proposed temporary shop and services use within a three-month period upon the request made by Government as the application premises fell within the project limit of “Hiram's Highway Improvement Stage 2”; and
- (c) if any of the above planning conditions (a) or (b) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

38. The Committee also agreed to advise the applicant the following :

- (a) to note the Chief Engineer/Development(2), Water Supplies Department's comments that there were fresh water mains in existence in the vicinity of the concerned site to be replaced/rehabilitated under Replacement and Rehabilitation of Water Mains Stage 4, for which the construction works was anticipated to commence by early 2011. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize; and
- (b) to note the Director of Food and Environmental Hygiene's comment and apply for a Food Factory Licence or a Fresh Provision Shop Licence where appropriate.

[The Chairperson thanked Mrs. Margaret W.F. Lam, Miss Erica S.M. Wong, and Ms. Ann O.Y. Wong, STPs/SKIs, for their attendance to answer Members' enquires. Mrs. Lam, Miss Wong and Ms. Wong left the meeting at this point.]

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

Sha Tin, Tai Po and North District

[Mr. W.K. Hui, District Planning Officer/Shan Tin, Tai Po and North (DPO/STN), and Ms. Doris S.Y. Ting, Senior Town Planner/Shan Tin, Tai Po and North (STP/STN), were invited to the meeting at this point.]

Agenda Item 11

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/MOS/77 Temporary Religious Institution (Church) for a Period of 5 Years
in “Residential (Group A)” zone,
Unit Nos. 17-19 & 22-23, 1/F, The Waterside,
15 On Chun Street, Ma On Shan
(RNTPC Paper No. A/MOS/77)

Presentation and Question Sessions

39. Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary religious institution (church) for a period of 5 years;
- (c) departmental comments – no objection to or no adverse comments from concerned Government departments were received;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Shan Tin); and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 10 of the Paper. The proposed church was located on the first floor of the 2-storey commercial portion of the Waterside, a residential development. It was compatible with the other existing uses on the same floor consisting of education centre, church, dancing school, beauty parlour and management office. With a separate entrance from the common area served by escalators, the commercial podium was separated from the users of the domestic towers and it was envisaged that the proposed church would not cause nuisance to the residents of the Waterside. It was considered not incompatible with the adjacent land uses of residential developments, schools and open space. It would also unlikely cause adverse traffic and environmental impacts on the surrounding areas. Concerned departments had no objection to or no adverse comments on the application.

40. Members had no question on the application.

Deliberation Session

41. The Chairperson remarked that the Committee had approved two similar applications for church use in the commercial podium of the Waterside. Members agreed that the present application could be approved on a temporary basis as sought.

42. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 5 years until 6.11.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission of fire service installations proposals within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010;
- (b) in relation to (a) above, the provision of fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.8.2010; and

- (c) if any of the above planning conditions (a) or (b) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

43. The Committee also agreed to advise the applicant :

- (a) to apply to the District Lands Officer/Shu Tin, Lands Department for a temporary waiver to permit the applied use; and
- (b) to observe the requirements of the Buildings Ordinance concerning the provision of sanitary fitments for the participants of the church and the separation of the church area from the remaining areas of the arcade by walls and floor having a fire resistance period of not less than 2 hours.

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-FTA/97 Temporary Tyre Repairing Workshop for a Period of 3 Years
in “Agriculture” zone,
Lot 102 S.A (Part) in D.D. 52 and Adjoining Government Land in
Fu Tei Au, Sheung Shui
(RNTPC Paper No. A/NE-FTA/97)

Presentation and Question Sessions

44. Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary tyre repairing workshop for a period of 3 years;

- (c) departmental comments – the Director of Environmental Protection (DEP) advised that there was no environmental complaint regarding the application site in the past 5 years but he did not support the application in view of the domestic structures in the vicinity. The Director of Agriculture, Fisheries and Conservation (DAFC) had no strong view against the application as the site had been used for the use under application for some years. The Director of Civil Engineering and Development (DCED) advised that the site fell within the proposed Fanling North New Development Area (NDA) and the land use of the NDA would be reviewed in the North East New Territories New Development Areas Planning and Engineering Study (the NENT NDAs Study), which commenced in June 2008 for completion in mid 2011. The site formation works for development in the NDAs were tentatively scheduled to commence in 2014. The DCED suggested that the effective period of permission for the application should be granted to a date not later than 2013 in order not to prejudice the NDAs development. The Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) had some reservations on the application from the landscape planning point of view and advised that when compared with the accepted and implemented landscape proposal for the previous approved applications, three numbers of trees were found missing within the site and replacement planting was thus required. The previous record of non-compliance of the landscape conditions cast doubt on the applicant's commitment to carry out tree preservation and planting works on site;
- (d) one public comment stating “no comment” was received during the statutory publication period. Upon District Officer (North)'s consultation with the locals, the Village Representatives of Sheung Shui Heung agreed to the application while the concerned District Council member and the Chairman of the Sheung Shui District Rural Committee had no comment on the application; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper.

The proposed use on a temporary basis was considered not incompatible with the adjacent land uses and the application site had been used for tyre repairing workshop for some time. Approval of the application on a temporary basis would not frustrate the planning intention of the “Agricultural” (“AGR”) zone. The Committee had approved five previous applications for the same use and four of them were submitted by the same applicant of the current application. As there was little change in circumstances since the previous planning approvals, approval of the subject application was in line with the Committee’s previous decisions. Although DEP did not support the application, no environmental complaint regarding the site had been received in the past 5 years and relevant departments had no objection to / no adverse comment on the application. To address the concerns from the DEP, DCED and CTP/UD&L, PlanD, relevant approval conditions were recommended in the planning approval. The applicant would also be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers. Though the last approval (No. A/NE-FTA/82) was revoked due to non-compliance with the landscape conditions, the applicant had complied with most of the other approval conditions. In view of the previous revocation, shorter approval and compliance periods were proposed to monitor the progress of compliance should the Committee decide to approve the application. The applicant would be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, no sympathetic consideration would be given to any further application unless under exceptional circumstances.

45. Members had no question on the application.

Deliberation Session

46. A Member said that with the missing of 3 trees within the site, the applicant had failed to comply with the approval condition of tree preservation stipulated in the previous

planning approval. Granting approval to the present application would set a bad example for other similar cases. To address this concern, the Chairperson suggested and Members agreed that a more stringent planning approval with a shorter approval period of 1 year and shorter compliance periods should be imposed to closely monitor the performance by the applicant. In response to the Chairperson's enquiry, Mr. W.K. Hui advised that shorter compliance periods had been recommended in the planning approval as per approval conditions (i) and (j) in paragraph 12.2 of the Paper, which required the applicant to submit the tree preservation and landscaping proposals within 3 months and to implement the landscape measures within 6 months from the date of planning approval, respectively. Advisory clause (b) was also included in the planning approval to warn the applicant that he would not be given sympathetic consideration in any future application should he fail to comply with the approval conditions again resulting in the revocation of the planning permission. The Chairperson remarked that the imposition of shorter approval and compliance periods with the inclusion of a warning clause in the planning approval for cases with previous revocation was consistent with the current practice of the TPB. Members agreed to tolerate the proposed use by granting planning permission for 1 year with shorter compliance periods to monitor the progress of compliance by the applicant.

47. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 1 year until 6.11.2010, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no operation between 8:00 p.m. and 8:00 a.m. was allowed on the application site during the planning approval period;
- (b) no operation on Sundays and public holidays was allowed on the application site during the planning approval period;
- (c) the submission of vehicular access, parking and loading/unloading proposals within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 6.2.2010;
- (d) in relation to (c) above, the implementation of vehicular access, parking

and loading/unloading proposals within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 6.5.2010;

- (e) the submission of drainage proposals within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.2.2010;
- (f) in relation to (e) above, the implementation of drainage proposals within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.5.2010;
- (g) the submission of proposals for fire service installations and water supplies within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.2.2010;
- (h) in relation to (g) above, the provision of fire service installations and water supplies within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010;
- (i) the submission of tree preservation and landscaping proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.2.2010;
- (j) in relation to (i) above, the implementation of tree preservation and landscaping proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.5.2010;
- (k) if any of the above planning conditions (a) or (b) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (l) if any of the above planning conditions (c), (d), (e), (f), (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given

should cease to have effect and should on the same date be revoked without further notice.

48. The Committee also agreed to advise the applicant :

- (a) prior planning permission should have been obtained before commencing the development on site;
- (b) shorter approval and compliance periods were allowed in order to monitor the situation of the site and compliance of approval conditions. Should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, no sympathetic consideration would be given to any further application unless under exceptional circumstances;
- (c) resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:
 - (i) any unauthorized building works carried out on the site were subject to enforcement action under section 24 of the Buildings Ordinance (BO);
 - (ii) formal submission by an authorized person for the proposed development was required under the BO and if the site did not abut on a street of not less than 4.5 m wide, the development intensity of the site should be determined under the Building (Planning) Regulations (B(P)R)19(3) at the building plan submission stage;
 - (iii) the granting of planning permission should not be construed as condoning any unauthorized structures existing on the site under the BO and the allied regulations. Actions appropriate under the BO or

other enactment might be taken if contravention was found; and

- (iv) use of containers as site office or store was considered as temporary buildings and was subject to control under the B(P)R Part VII and an EVA should be provided under B(P)R 41D unless exempted;
- (e) to note the Chief Engineer/Development (2), Water Supplies Department's (WSD) comments that the existing DN1200 water mains would be affected. A waterworks reserve within 3 metres from the centreline of the water mains should be provided by WSD. Therefore, the boundaries of the application site was required to set back to exclude the proposed waterworks reserve;
- (f) to follow the environmental mitigation measures as recommended in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the potential environmental impacts on the adjacent area;
- (g) to note the Director of Fire Services' advice that detailed fire safety requirements would be formulated upon receipt of formal submissions of general building plans and his recommendations regarding fire service installations proposals:
 - (i) sufficient emergency lighting should be provided throughout the entire building in accordance with BS 5266: Part 1 and BS EN 1838;
 - (ii) sufficient directional and exit sign should be provided in accordance with BS 5266: Part 1 and FSD Circular Letter 5/2008;
 - (iii) fire alarm system should be provided throughout the entire building in accordance with BS 5839-1:2002 + A-2:2008 and FSD Circular Letter 1/2009. One actuation point and one audio warning device to be located at each hose reel point. This actuation point should include facilities for fire pump start and audio/visual warning device

initiation;

- (iv) a modified hose reel system supplied by a 2m³ FS water tank should be provided. There should be sufficient hose reels to ensure that every part of each building could be reached by a length of not more than 30m of hose reel tubing. The FS water tank, FS pumping room and hose reel should be clearly marked on plans;
- (v) portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans; and
- (vi) formal application for storage of rubber tyre in excess of 500 should be made to his Department.

[Ms. Anna S.Y. Kwong left the meeting at this point.]

Agenda Item 13

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTN/131 Proposed Comprehensive Residential Development with Minor Relaxation of Plot Ratio and Site Coverage Restrictions in “Comprehensive Development Area” zone and an area shown as ‘Road’, Lots 684 RP, 705 RP (Part), 706 RP (Part), 709 (Part), 711 (Part), 712, 713 RP, 715, 716, 717, 718 RP (Part), 719, 721 RP (Part), 2158 RP (Part) in D.D. 92 and Adjoining Government Land, Kwu Tung North, Sheung Shui
(RNTPC Paper No. A/NE-KTN/131)

Presentation and Question Sessions

49. Ms. Doris S.Y. Ting, STP/STN, informed the meeting that two replacement pages 18 and 19 of the Paper were tabled at the meeting for Members’ reference. The replacement pages involved amendments to paragraph 13.2 regarding the recommended

approval conditions for the application. Ms. Doris Ting then presented the application and covered the following aspects as detailed in the Paper :

[Mr. David W.M. Chan arrived to joint the meeting at this point.]

- (a) background to the application;
- (b) the proposed comprehensive residential development with minor relaxation of plot ratio (PR) and site coverage (SC) restrictions;
- (c) departmental comments – relevant Government departments had the following comments:
 - the District Lands Officer/North, Lands Department (DLO/N, LandsD) had no in-principle objection to the application but advised that there was no guarantee that the subsequent lease modification application for the proposed 3-storey houses development would be approved. DLO/N, also advised that he did not support the proposed opening of the Enchi Lodge for public appreciation on the grounds that upon completion and sale of the development, the liability to maintain the Enchi Lodge would be shifted to future individual house owners. Complaints were anticipated from owners for having to shoulder the cost of maintaining Enchi Lodge, a historic building, which would be costly and the cost was expected to increase overtime. Moreover, it would be difficult to enforce the opening up requirement under the lease;
 - the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had no comment on the proposed road improvement works since the village access road between Castle Peak Road and the Z-bend along the western boundary of the application site would be managed and maintained by the applicants. However, AC for T/NT advised that it was the applicants' responsibility to design, construct, manage and maintain the access road to ensure that

the road was safe for public access;

- the Commissioner for Heritage (C for H) and the Antiquities and Monuments Office (AMO) advised that the Enchi Lodge was a rare example of its kind. It was proposed to accord Grade II status subject to endorsement by the Antiquities Advisory Board. As the annex block behind Enchi Lodge which was also proposed as a Grade II historic building, would be replaced by a swimming pool as shown on the Master Layout Plan (MLP) in the development proposal, AMO was willing to discuss with the applicants the possible economic incentives that commensurated with the heritage value of the annex block. The AMO also preferred mitigation measures to be carried out for the protection of the Earth God Shrine of Kam Tsin Tsuen (Grade 1 historic building) located immediately outside the eastern boundary of the site;

- the application site fell within the proposed Kwu Tung North New Development Area (KTN NDA). The Project Manager (New Territories North and West), Civil Engineering and Development Department (PM(NTW), CEDD) commented that the proposed development at the application site would inevitably pose constraints to the review of the recommended layout plan for the area; and advised that the implementation programme of the proposed Road 4, which ran along the western boundary of the application site, was yet to be confirmed. The Chief Town Planner/Studies and Research, Planning Department (CTP/SR, PlanD) advised that as detailed proposals of the North East New Territories New Development Area (NENT NDA) Study were yet to be formulated and confirmed, the proposed zoning of the site should be considered in accordance within the provision of the extant Outline Zoning Plans and existing infrastructural capacities; and

- the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had some reservations on the application from both urban design and landscape perspectives;

- (d) During the statutory publication period of the application, a total of 11 public comments were received. There were considerable objections to the application on technical, environmental and fung shui grounds; and there were concerns about the reduction in the land supply for Small House development and the adverse impact on the structure of the surrounding domestic structures. District Officer/North had consulted the Chairman of Sheung Shui District Rural Committee, concerned North District Councillor and Village Representatives of Yin Kong Village. All of them objected to the application. In addition, some villagers of the surrounding areas also raised objection on drainage, air quality, traffic, 'fung shui', environmental and security grounds. There were also concerns on the reduction of land available for small house development and that construction of the proposed development might affect the structure of surrounding domestic structures; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. PlanD's assessments of the application were summarized below :
- the submitted MLP for consideration was with a plot ratio (PR) of 0.47 and a site coverage (SC) of 22.4% which included the bonus PR of 0.07 and SC of 2.4% yet to be granted by the Building Authority (BA) for the proposed setback along the western boundary of the site to allow the widening of the existing access road. The proposed development under application was considered in line with the Town Planning Board Guidelines for Designation of "Comprehensive Development Area" ("CDA") zones and Monitoring the Progress of "CDA" Development (TPB PG-No. 17) in that the planning intention of the "CDA" zone would not be undermined, the access to the unacquired lots within the "CDA" zone was retained and the individual lot owners' landed interest would not be adversely affected. The applicants had also included in the MLP the indicative layout for the area in the "CDA" zone to the east of the application site in case of

redevelopment. The development potential of the unacquired lots would not be absorbed in the present scheme;

- the set back of the site for widening the access road proposed by the applicants would serve to improve access to Yin Kong Village and nearby residential developments. In this regard, AC for T/NT, TD had no in-principle objection to the applicants' proposal to construct, manage and maintain the access road;
- the proposed preservation of Enchi Lodge by the applicants, which was a proposed Grade II historical building, was supported by C for H and AMO. The applicants had suggested to open the Enchi Lodge for public enjoyment. Though DLO/N did not support such opening from land management point of view, based on the case on Jessville, an approval condition could be included to require the historical building to be open once a week and the open day for public to gain access to the historic building should include Sundays and public holidays. Further details of preservation and public access to Enchi Lodge could be worked out between the relevant departments and the applicants at detailed design stages;
- relevant departments had no objection to / no adverse comments on the application, and relevant approval conditions and advisory clauses were recommended in the planning approval to address the concerns of relevant departments;
- however, the approval was conditional upon the BA's granting of the bonus PR and SC, should the claimed bonus PR and SC not be granted by the BA, the applicants would have to submit a revised MLP complying with the statutory OZP restrictions for consideration of the Board under s.16 of the Town Planning Ordinance; and
- regarding the local objections to the application on traffic safety, air quality and environmental and drainage grounds, concerned

departments had no in-principle objection to the application.

50. The comments / questions raised by Members were summarized as follows :
- (a) detailed arrangement of opening up of Enchi Lodge, which would be preserved in-situ and converted to a residents' clubhouse, for public enjoyment; and
 - (b) noting villagers' objection to the application, whether the proposed development had taken up any land for Small House development by local villagers; and
 - (c) the building height of the proposed development.
51. The responses made by Mr. W.K. Hui were summarized as follows:
- (a) while the detailed arrangement of opening of Enchi Lodge for public enjoyment had not yet been fixed at this stage, it could be worked out between the relevant departments including LandsD and the applicants at detailed design stages. Taking Jessville as an example, it was proposed to open Enchi Lodge to public at least one day a week. To achieve this purpose, an approval condition was recommended in the planning approval as detailed in the Paper. In response to the Chairperson's enquiry, Mr. Hui informed Members that the in-situ preservation of Enchi Lodge and opening for public enjoyment were initiated by the applicants, and was supported by C for H and AMO;
 - (b) regarding the objections raised by the local villagers, the application site did not involve any land under the "Village Type Development" zone, though part of the site was within the 'village environs' ('VE') of Yin Kong Village. Furthermore, the "CDA" zoning for the application site had undergone the relevant plan-making procedures. The application site was the subject of an objection to the draft Kwu Tung North Outline Zoning Plan (OZP) No. S/NE-KTN/1 on which the application site was

zoned “Government, Institution or Community” (“G/IC”). After giving consideration to the objection, the Town Planning Board (TPB) considered that the application site could be used for comprehensive low-density residential development and decided to propose amendments to the draft OZP to meet the objection by rezoning the application site from “G/IC” to “CDA” with development restrictions. The proposed amendments to the draft OZP were eventually confirmed by the TPB and had formed part of the draft OZP, which had subsequently been approved by the Chief Executive in Council (CE in C); and

- (c) the proposed development was for a building height of 3 storeys including carport.

52. Mr. Y.M. Lee clarified 3 points in relation to TD’s position on the application. With reference to paragraph 12.3 of the Paper which stated that AC for T/NT had “no in-principle objection to construct, manage and maintain the access road proposed by the applicants”, Mr. Lee clarified that TD had no objection to the applicants’ proposal to design, construct, manage and maintain the proposed access road. Secondly, with reference to Appendix 1m of the Paper, Mr. Lee pointed out that in a previous submission by the applicants’ consultant on the proposed driveway/emergency vehicular access (EVA) arrangement, the driveway/EVA design could allow a visibility length of 50m. However, in the latest information as shown in Plan A-2 of the Paper, it was noted that the sightline had been reduced to 40m only. As 50m was the absolute minimum for the visibility length, TD was not satisfied with the proposed driveway/EVA arrangement. As such, TD’s comment in paragraph 10.1.2 of the Paper should be included in the advisory clause of the planning approval to remind the applicant of his responsibility to design, construct, manage and maintain the proposed access road along the western boundary of the application site to ensure that the road was safe for public access, and would have a minimum visibility length of 50m. Thirdly, with reference to the PM(NTW), CEDD’s comment that part of Enchi Lodge was within the area designated for the Castle Peak Road – Kwu Tung, and the proposed development might pose constraints to the Kwun Tung North NDA programme, there might be a need to review the land intake for the proposed development in the context of the Kwu Tung North NDA.

53. Mr. W.K. Hui said that should the Committee decide to approve the application, TD's comments in paragraph 10.1.2 of the Paper could be included as an advisory clause of the planning approval. He then referred to paragraph 13.2 of the replacement pages tabled at the meeting and informed Members that a set of approval conditions were proposed to be stipulated to the planning approval. The proposed approval condition in paragraph 13.2(c) of the replacement pages would address TD's concerns on the sightline problem as the condition would require the applicants to submit a revised Traffic Impact Assessment (TIA) Report, the design and provision of vehicular access road, parking spaces, loading and unloading facilities to the satisfaction of C for T or of the Town Planning Board. Mr. Hui also referred to Plan A-2 of the Paper and pointed out that as only a small portion of Enchi Lodge was within the area shown as 'Road', it would be possible to work out an appropriate arrangement during the review of the Kwu Tung NDA which was still on-going.

54. A Member was concerned that the existing access road to the west of the site leading to Yin Kong Village, which would also serve as the access road to the proposed development, would not have sufficient capacity to serve the traffic need of the village area. This Member noted that an approval condition on traffic aspect including the design and provision of vehicular access road, parking spaces, loading and unloading facilities to the satisfaction of the Commissioner for Transport was suggested for the planning approval. In response to the Chairperson's enquiry, Mr. W.K. Hui referred to Plan A-2 and informed Members that there was no programme for the road widening of Road 4, which was associated with the Kwu Tung North NDA. However, the applicants' proposed setback of the western boundary of the application site for widening the existing access would help improve the existing road conditions of the area. Upon the implementation of the Kwu Tung North NDA and the completion of Road 4, the overall road and traffic conditions of the area would be further improved.

Deliberation Session

55. Members noted the objections raised by local villagers who lived in close proximity to the application site. The Chairperson remarked that the application site had a long history. It was previously a "GIC" site subsequently rezoned to "CDA" in 1996. The "CDA" zoning of the application site had gone through the relevant plan making procedures. To ensure that the layout of the proposed development could be compatible with its

surroundings, the development would be governed by a set of approval conditions as set out in the replacement pages tabled at the meeting.

56. Mr. Simon K.M. Yu informed Members that LandsD had reservation on the subsequent lease modification application on two counts. As the application site involved a total of about 394 m² of Government land (GL), under the existing land policy, indigenous villagers were entitled to request for using the GL within the 'VE' for village development. As for private land falling within the 'VE', it might also be faced with similar challenges by the villagers. While legal advice would need to be sought and the issue would be dealt with by LandsD at the lease modification stage, LandsD would like to reserve its position and would not guarantee that the lease modification application for the proposed development would be approved.

57. While noting Lands Department's comment on the possible objection from the local villagers to the proposed development at the land exchange stage, the Chairperson said that as the "CDA" zoning for the site had undergone the relevant plan-making procedures and had been approved by the CE in C and reflected in the current approved Kwu Tung North OZP, the statutory "CDA" status of the site should provide a reference for LandsD in case court challenges by villagers arose in future. Members agreed.

58. Mr. Simon Yu went on to say that if TD could confirm at this stage the need to widen the existing access road leading to Yin Kong Village, LandsD could stipulate the setback requirements into the regrant site boundary and the applicant's claim for concessions from the BA might not be realized. In response, the Secretary then drew Members' attention to the fact that an approval condition (i.e. approval condition (j)) and an advisory clause (clause (b)) were suggested in the planning approval to clearly state that should the concessions not be granted by the BA, the applicants should submit a revised scheme in compliance with the statutory restrictions in the OZP. In view of LandsD's concern on the granting of GL to the proposed development, it would be appropriate to incorporate LandsD's relevant comments in the planning condition / advisory clause in the same manner as the concession to be sought from the BA. Members agreed.

59. The Chairperson also informed Members that the approval condition suggesting to open Enchi Lodge to the public at least one day a week was in line with the recent case of

Jessville in Pok Fu Lam, Hong Kong, in which the same approval condition was stipulated in the planning approval.

60. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.11.2013, 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. The permission was subject to the following conditions :

- (a) the submission and implementation of a revised Master Layout Plan (MLP) by taking into account the conditions (b), (c), (d) and (i) below to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission and implementation of a Landscape Master Plan, including tree preservation proposals and quarterly tree monitoring reports, to the satisfaction of the Director of Planning or of the TPB;
- (c) the design and provision of vehicular access road, parking spaces, loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the TPB;
- (d) the submission and implementation of drainage and sewerage proposals to the satisfaction of the Director of Drainage Services or of the TPB;
- (e) the submission of an Archaeological Impact Assessment Report and implementation of recommendations identified by the assessment to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;
- (f) Enchi Lodge should be open to the public at least one day a week;
- (g) the submission of restoration / conversion proposals of Enchi Lodge to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;
- (h) the design and provision of water supplies for fire fighting and fire service

installations to the satisfaction of the Director of Fire Services or of the TPB;

- (i) the submission of an implementation programme to the satisfaction of the Director of Planning or of the TPB;
- (j) the approval was conditional upon Building Authority's granting of bonus plot ratio and site coverage; and
- (k) the approval was conditional upon Lands Department's granting of the Government land within the application site for the proposed development.

61. The Committee also agreed to advise the applicants the following :

- (a) that the approved MLP, together with the set of approval conditions, would be certified by the Chairman of the TPB and deposited in the Land Registry in accordance with section 4A(3) of the Town Planning Ordinance. Efforts should be made to incorporate the relevant approval conditions into a revised MLP for deposited in the Land Registry as soon as possible;
- (b) to note that should the request for bonus plot ratio and site coverage not granted by the Building Authority, the applicants should re-submit a revised scheme under section 16 of the Town Planning Ordinance;
- (c) that the open day for public to gain access to the historic building should include Sundays and public holidays. Detailed arrangement on this aspect would be worked out between Commissioner for Heritage and the applicants;
- (d) to note the comments from the District Lands Officer/North, Lands Department (DLO/N, LandsD) that:
 - (i) the applicants should apply to his Office for lease modification by way of land exchange before proceeding with the proposed

development upon obtaining the planning permission from the TPB;

- (ii) the appropriate development parameters would be considered at the time of processing of the application of lease modification and there was no guarantee for approval of the lease modification application; and
 - (iii) should the Government land within the application site was not granted by the LandsD, the applicants should re-submit a revised scheme under section 16 of the Town Planning Ordinance;
- (e) to note the comments from the Assistant Commissioner for Transport/New Territories, Transport Department that the applicants should note that it was their responsibility to design, construct, manage and maintain the proposed access road in the western part of the application site to ensure that the road was safe for public access; and the setting back for the access road should provide a sightline with an absolute minimum of 50m;
- (f) to note the comments from the Chief Highway Engineer/New Territories East, Highways Department that the applicants should seek comments from the appropriate management and maintenance party on the proposed access points on the village access road;
- (g) to note the comments from the Chief Building Surveyor/New Territories West, Buildings Department that:
- (i) any unauthorized structures on site, which were liable to action under section 24 of the Buildings Ordinance (BO) should be removed;
 - (ii) the development intensity should not exceed the permissible as stipulated under the First Schedule of the Building (Planning) Regulations (B(P)R). In case the site did not abut a specified street of width not less than 4.5 m, then the development intensity would

be determined by the Building Authority;

- (iii) the applicants' attention should be drawn to the provision of emergency vehicular access under B(P)R 41D and any proposed street work should comply with the requirements laid down in the Building (Private Street and Access Road) Regulation and any required internal roads might have to be discounted from the site area for the purpose of BO; and
 - (iv) formal submission by an authorized person for the proposed development was required under the BO;
- (h) to note the comments from the Director of Fire Services that:
- (i) Emergency Vehicular Access arrangement should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue administered by Buildings Department; and
 - (ii) detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;
- (i) to note the comments of the Chief Engineer/Development(2), Water Supplies Department that:
- (i) the applicants might need to extend his/her inside services to the nearest suitable Government water mains for connection;
 - (ii) the applicants should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to the standards of his Department; and
 - (iii) existing water mains would be affected by the proposed

development. The applicants should bear the cost of any necessary diversion works affected by the proposed development;

- (j) to note the comments of the Antiquities and Monuments Office that:
 - (i) the applicants should carry out mitigation measures for protection of the Earth God Shrine of Kam Tsing Tsuen; and
 - (ii) the applicants would also be advised to preserve the annex block of Enchi Lodge by exploring the possibility of “preservation-cum-development” options to incorporate the annex in the future development instead of a total demolition.

[Dr. C.N. Ng left the meeting temporarily at this point.]

Agenda Item 14

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TKL/327 Proposed House
(New Territories Exempted House (NTEH) - Small House)
in “Agriculture” zone,
Lot 171 S.A in D.D. 79, Ping Yeung Village, Ta Kwu Ling
(RNTPC Paper No. A/NE-TKL/327)

Presentation and Question Sessions

62. Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed House (New Territories Exempted House (NTEH) - Small House);

- (c) departmental comments – the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application as he considered that Small House development should be confined within the “Village Type Development” (“V”) zone and the application would set an undesirable precedent for similar applications in the future and the resulting cumulative adverse traffic impact would be substantial;

- (d) one public comment stating “no comment” on the application was received during the statutory publication period. According to the local consultation by District Officer (North), the Vice-Chairman of Ta Kwu Ling District Rural Committee supported the application while 3 Indigenous Inhabitants Representatives (IIRs) of Ping Yeung had no comment and the other IIR was currently out of town. The Residents’ Representative of Ping Yeung could not be reached by the deadline of consultation; and

- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. The application generally met the interim criteria for assessment of planning application for NTEH/Small House development as the footprint of the proposed Small House fell entirely within the ‘Village Environs’ (‘VE’) of Ping Yeung Village and there was a general shortage of land in meeting the demand for Small House development in the “V” zone of Ping Yeung Village. The application site was located to the immediate southwest of the “V” zone of Ping Yeung Village and the proposed Small House was not incompatible with low rise residential/village houses in the neighbourhood. Although the site fell within the “Agriculture” (“AGR”) zone, the Director of Agriculture, Fisheries and Conservation had no strong view against the application as the site was surrounded by domestic structures and abandoned land and had low potential for agricultural rehabilitation. There was reservation on traffic ground, but other relevant departments consulted had no objection to the application. 7 similar Small

House applications had been approved by the Committee between 2001 and 2007. Hence, sympathetic consideration could be given to the application.

63. With reference to Plan A-3, a Member queried why the site zoned “AGR” on OZP had been paved and fenced off. In response, Mr. W.K. Hui informed Members that as the village land supply was tight in Ping Yeung Village, small houses had been developed on land in the “AGR” zone which was within the ‘VE’ of Ping Yeung Village. The structures shown in Plan A-3 could be subject to various licences granted by relevant approving authorities. Mr. Simon K.M. Yu supplemented that under the Block Government Lease, open air uses such as car parks not involving any structures to be built thereon, would be allowed and the approval by the Director of Lands was not required. The Chairperson supplemented that land filling exceeding 1.2m and land paving of the site within the subject “AGR” zone would require approval by the Town Planning Board. In the instant case, there was no information at hand on when the approval was granted for hard paving of the lots in the vicinity of the application site, which might have happened before the area was included in the Development Permission Area Plan for Ta Kwu Ling.

[Dr. C.N. Ng returned to join the meeting at this point.]

Deliberation Session

64. Members agreed that the application had complied with the interim criteria for assessment of planning application for NTEH/Small House development and could be approved.

65. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.11.2013, 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. The permission was subject to the following conditions :

- (a) the submission and implementation of drainage proposals to the satisfaction of the Director of Drainage Services or of the TPB;

- (b) the provision of firefighting access, water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (c) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the TPB.

66. The Committee also agreed to advise the applicant the following :

- (a) to note the Chief Town Planner/Urban Design & Landscape of Planning Department's comment that landscape planting should be proposed along the perimeter of the site to enhance the screening and greening effect;
- (b) to note the Chief Engineer/Development(2), Water Supplies Department's comments that:
 - (i) for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards;
 - (ii) water mains in the vicinity of the application site could not provide the standard fire-fighting flow; and
 - (iii) the application site was located within the flood pumping gathering ground; and
- (c) to note that the permission was only given to the development under application. If provision of an access road was required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of

the relevant statutory plan and obtain planning permission from the TPB where required before carrying out the road works.

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

Agenda Item 15

Section 16 Application

[Open Meeting]

A/NE-LYT/397 Proposed Public Utility Installation (Electricity Package Transformer)
in “Village Type Development” zone,
Government Land in D.D. 51, Tong Hang, Fanling
(RNTPC Paper No. A/NE-LYT/397A)

67. The Committee noted that on 16.10.2009, the applicant wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to further defer consideration of the application for 2 months due to unexpected technical constraints inherent with the location of the application site and more time was required to sort out issues with concerned parties.

68. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information; and the Committee had allowed a total of 4 months for preparation of submission of further information, no further deferment would be granted unless under very special circumstances.

[Mr. Timothy K.W. Ma left the meeting temporarily at this point.]

Agenda Item 16

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TK/293 Proposed House
 (New Territories Exempted House (NTEH) - Small House)
 in “Agriculture” zone,
 Lot 687 A-C S.B in D.D. 29, Ting Kok, Tai Po
 (RNTPC Paper No. A/NE-TK/293)

Presentation and Question Sessions

69. Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) - Small House);
- (c) departmental comments – the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) did not support the application as the application site was not within the “Village Type Development” (“V”) zone and the ‘Village Environs’ (‘VE’) of any recognised villages. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from agricultural development point of view as the site had high potential for agricultural rehabilitation. The Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application and raised concern on the cumulative adverse traffic impact. The Chief Town Planner, Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from landscape planning point of view. The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) had in-principle objection to the application based on geotechnical considerations;

- (d) two public comments against the application were received during the statutory publication period. One of them was submitted by the Indigenous Inhabitants Representative (IIR) of Shan Liu Village and the other was submitted by Kadoorie Farm & Botanic Garden Corporation, raising concern on the potential pollution caused by the proposed development on the nearby stream. No local objection was received by the District Officer (Tai Po); and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 11 of the Paper. Although there was a general shortage of land in meeting the future Small House demand in Ting Kok Village, the proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development as the application site was entirely outside the “V” zone and the ‘VE’ of any recognised villages. In this regard, the DLO/TP LandsD did not support the application. Moreover, the DAFC and the CTP/UD&L, PlanD objected to the application from agricultural and landscape planning points of view. The AC for T/NT, TD had reservation on the application on traffic ground. The H(GEO), CEDD had in-principle objection to the application based on geotechnical considerations. Local objections against the application were received. As regards the two similar applications No. A/NE-TK/141 and 143 quoted by the applicant, the two cases were approved mainly on the consideration that more than 50% of the footprint of the two proposed Small Houses fell within the “V” zone. For the current application, the site was entirely outside both the “V” zone and the ‘VE’ of any recognised villages.

70. A Member enquired if the 10-Year Small House demand forecast of 500 for Ting Kok Village had been verified. In response, Mr. W.K. Hui informed Members that the forecast had been verified with the previous forecast returns for the Village.

Deliberation Session

71. Members agreed that the application did not comply with the interim criteria for assessment of planning application for NTEH/Small House development and the application could not be supported.

72. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed development did not comply with the interim criteria for assessing planning application for New Territories Exempted House/Small House development as the application site was entirely outside the “Village Type Development” zone and the ‘Village Environs’ of any recognised villages; and
- (b) the approval of the application would set an undesirable precedent for other similar applications in the area.

[Mr. Timothy K.W. Ma returned to join the meeting at this point.]

Agenda Item 17

Section 16A Application

[Open Meeting]

A/NE-SSH/61-1 Proposed Comprehensive Residential and Recreational Development Including Government, Institution or Community Facilities (Amendments to Approved Scheme) in “Comprehensive Development Area” zone, Various Lots in D.D. 165, 167, 207 and 218 and Adjoining Government Land, Sai Sha, Shap Sz Heung (RNTPC Paper No. A/NE-SSH/61-1)

73. The Secretary reported that the application was submitted by a subsidiary of Sun Hung Kai Properties Ltd. (SHK). Mr. Alfred Donald Yap and Mr. Y.K. Cheng had declared an interest in the item as they had current business dealings with SHK. As the applicant had requested for a deferment of consideration of the application, the Committee

agreed that Mr. Yap and Mr. Cheng could be allowed to stay at the meeting.

74. The Committee noted that on 23.10.2009, the applicant's representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for 2 months in order to allow more time for them to address the comments from Government departments.

75. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Messrs. Alfred Donald Yap and Y.M. Lee left the meeting temporarily at this point.]

[The Chairperson thanked Mr. W.K. Hui, DPO/STN and Ms. Doris S.Y. Ting, STP/STN, for their attendance to answer Members' enquires. Mr. Hui and Ms. Ting left the meeting at this point.]

Tuen Mun and Yuen Long District

[Mr. W.M. Lam, Mr. K.K. Lee, Ms. S.H. Lam, Mr. Anthony C.Y. Lee and Mr. C.C. Lau, Senior Town Planners/Tuen Mun and Yuen Long (STPs/TMYL), were invited to the meeting at this point.]

Agenda Item 18

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/310 Temporary Public Vehicle Park for Private Car and Light Goods Vehicle for a Period of 3 Years
in “Village Type Development” zone,
Lots 406RP(Part), 407(Part) and 408(Part) in D.D. 122 and
Adjoining Government Land, Sheung Cheung Wai,
Ping Shan, Yuen Long
(RNTPC Paper No. A/YL-PS/310)

Presentation and Question Sessions

76. Mr. W.M. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary public vehicle park for private cars and light goods vehicles for a period of 3 years;
- (c) departmental comments – no objection to or no adverse comments from concerned Government departments were received;
- (d) one public comment objecting to the application was received during the statutory publication period from the villagers of Sheung Cheung Wai and Sheung Cheung Wai San Tsuen on the grounds of noise nuisance, air pollution, environmental hygiene, environmental conservation, traffic and pedestrian safety. Local objection, which was the same as the public comment, was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. There was currently no Small House application at the application site.

Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “Village Type Development” (“V”) zone. Besides, the provision of public car park would help meet the parking demand of local villagers. The proposed vehicle park was for parking of private cars and light goods vehicles only and would not involve medium goods vehicles as in the previous application (No. A/YL-PS/258), which was rejected by the Committee. The proposed development was not incompatible with the surrounding land uses. DEP had no objection to the application and advised the applicant to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses & Open Storage Sites’ to further minimise the possible environmental nuisances to the nearby residents. Concerning the comments from local villagers, it was considered that the proposed development was for parking of private cars and light goods vehicles only. With approval conditions as recommended in paragraph 12.2 of the Paper, it was unlikely that the development would create significant adverse environmental and traffic impacts on the surrounding areas.

77. Members had no question on the application.

Deliberation Session

78. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.11.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no goods vehicles exceeding 5.5 tonnes, coaches, container vehicles, container tractors and trailers were allowed to be parked on the site at any time during the planning approval period;
- (c) no vehicles without valid licences issued under the Road Traffic Ordinance

were allowed to be parked/stored on site at any time during the planning approval period;

- (d) the provision of paving and fencing of the site, as proposed by the applicant, within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.5.2010;
- (e) the submission of a landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.5.2010;
- (f) in relation to (e) above, the implementation of the landscape and tree preservation proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.8.2010;
- (g) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.5.2010;
- (h) in relation to (g) above, the provision of drainage facilities as proposed within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.8.2010;
- (i) the submission of fire service installations proposals within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010;
- (j) in relation to (i) above, the provision of fire service installations proposed within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.8.2010;
- (k) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further

notice;

- (l) if any of the above planning conditions (d), (e), (f), (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (m) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

79. The Committee also agreed to advise the applicant the following :

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (b) to note District Lands Officer/Yuen Long's comments that the occupier of the Government Land (GL) and the registered owner of the lots concerned should be reminded to apply to his office for Short Term Tenancy (STT) / Short Term Waiver (STW) to regularise the irregularities on-site. Should no STT/STW application be received/approved and the irregularities persist on-site, his office would consider taking appropriate land control/lease enforcement action against the occupier/registered owner. The site was accessible through an informal village track on GL/other private land. His office did not provide maintenance works to the track nor guarantee right-of-way;
- (c) to adopt environmental mitigation measures as set out in the "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department to minimise any possible environmental nuisances;
- (d) to note the Assistant Commissioner for Transport/New Territories, Transport Department's comment that the land status of the road/path/track

leading to the site from a public road should be checked with the lands authority. The management responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;

- (e) to note the Chief Highway Engineer/New Territories West, Highways Department's (HyD) comment that HyD should not be responsible for the maintenance of any access connecting the site to Ping Ha Road;
- (f) to note the Chief Town Planner/Urban Design and Landscape, Planning Department's comment that due to the adjacent existing village, periphery planting should be provided including at least two rows of trees along the southern boundary;
- (g) to note the Director of Fire Services's comments on the requirements on formulating fire service installations proposal in Appendix III of the Paper;
- (h) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments on the removal of unauthorised structures within the site which were liable to action under section 24 of the Buildings Ordinance (BO). The granting of this planning approval should not be construed as condoning to any unauthorised structures existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required. If the site did not abut on a specified street having a width not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at building plan submission stage. Containers using as office were considered as temporary buildings and were subject to control under B(P)R Part VII; and
- (i) to note the Antiquities and Monuments Office, Leisure and Cultural Services Department's comment that the subject site fell within the Sheung

Cheung Wai Archaeological Site, no land excavation should be undertaken at the site without their prior written approval.

[The Chairperson thanked Mr. W.M. Lam, STP/TMYL, for his attendance to answer Members' enquires. Mr. Lam left the meeting at this point.]

Agenda Item 19

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTN/333 Temporary Open Storage of Vehicles and Vehicle Parts and Vehicle Repair Workshop (Private Cars) for a Period of 3 Years in “Undetermined” zone,
Lot 294 S.C RP in D.D. 103, Kam Tin North, Yuen Long
(RNTPC Paper No. A/YL-KTN/333)

Presentation and Question Sessions

80. Mr. K.K. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

[Messrs. Alfred Donald Yap and Y.M. Lee returned to join the meeting at this point.]

- (a) background to the application;
- (b) the temporary open storage of vehicles and vehicle parts and vehicle repair workshop (private cars) for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application in view of the sensitive receivers in the vicinity of the site and the expected environmental nuisance;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Yuen Long);

and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. The development was considered not incompatible with the surrounding land uses. Five previous approvals since 1999 were granted at the application site, and the approval condition related to provision of fire extinguisher under the last approval (Application No. A/YL-KTN/243) had been complied with. There was no significant change in the planning circumstances since the last approval. Approval of the subject application was in line with the Committee's previous decision and an approval on a temporary basis would not frustrate the long-term use of the "Undetermined" ("U") zone. The application was considered generally in line with Town Planning Board Guidelines No. 13E (TPB PG-No. 13E). While DEP did not support the application, the scale of the development was small and no environmental complaint had been received against the site in the past three years. To address the concern of the DEP on the possible nuisance generated by the temporary use, approval conditions restricting the operation hours and types of vehicles were recommended. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action. The applicant would be advised to follow the "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" in order to alleviate any potential impact. There was an approved residential development with commercial facilities and a GIC site (Application No. A/YL-KTN/319) located to the further northeast of the site. The land exchange of this residential development was completed in 2007 and the concerned site had been cleared pending development. In view of the scale and the development progress of the proposed residential development, a shorter approval period of 2 years, instead of 3 years sought by the applicant, could be imposed so as to monitor the situation of the site.

81. In response to the Chairperson's enquiry, Mr. K.K. Lee referred to Plan A-1 and

informed Members that the approved residential development was located about 100 m to the northeast of the application site.

Deliberation Session

82. Members agreed that the application could be granted approval on a temporary basis for a period of 2 years.

83. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 2 years until 6.11.2011, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 6:00 p.m. and 9:00 a.m. as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance or container trailers/tractors were allowed to be parked/stored on the site at any time during the planning approval period;
- (d) the existing landscaping trees on the site should be maintained at all time during the planning approval period;
- (e) the drainage facilities on the site should be maintained at all time during the planning approval period;
- (f) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010;
- (g) in relation to (f) above, the provision of fire service installations within

9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.8.2010;

- (h) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (i) if any of the above planning conditions (f) or (g) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (j) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

84. The Committee also agreed to advise the applicant the following :

- (a) planning permission should have been obtained before continuing the applied use at the application site;
- (b) a shorter approval period of 2 years was granted so as to monitor the situation on the site;
- (c) to note District Lands Officer/Yuen Long's comments that Short Term Waiver (STW) No. 3002 was granted to Lot No. 294 S.C RP in D.D. 103 permitting structures with site coverage not exceeding 149.13m² and height not exceeding 5.5m for the use of storage of vehicles, vehicle parts, vehicle repair workshop and ancillary use. Under the conditions of this STW, no additional structure, no storage nor parking purposes/uses was allowed on the Waterworks Reserve Area. His office reserved the right to take enforcement action under STW or lease if there was any breach of the pertaining conditions. Besides, the site was accessible by an informal tack from Kam Tin Road, which ran through open government land without

maintenance works to be carried out thereon by his office. His office did not guarantee such right-of-way (ROW) which shared partly with the ROW for the active project of Water Supplies Department namely “Replacement and Rehabilitation of Water Mains Stage 2”;

- (d) to note the Assistant Commissioner for Transport/New Territories, Transport Department’s comments that the land status of the track between the site and Kam Tin Road should be checked with the lands authority. The management and maintenance responsibilities of the track leading to the site from Kam Tin Road should be clarified with the relevant lands and maintenance authorities accordingly;
- (e) to note the Chief Highway Engineer/New Territories West, Highways Department’s comments that his office was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and Kam Tin Road;
- (f) to adopt environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection to minimize any potential environmental nuisances;
- (g) to note the Director of Fire Services’s comment that in consideration of the design/nature of the proposed structures, fire service installations (FSIs) were anticipated to be required. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In formulating the FSIs proposal for the proposed structures, the applicant should observe the requirements as indicated in Appendix V of the Paper. If the applicant wished to apply for exemption from the provision of certain fire service installations, justifications should be provided to his department for consideration;
- (h) to note the Chief Engineer/Development (2), Water Supplies Department’s comments that the development would affect the existing water mains.

The developer should bear the cost of any necessary diversion works affected by the development;

- (i) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of this planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required. If the site did not abut on a specified street having a width not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at building plan submission stage; and

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

Agenda Item 20

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/462 Proposed Temporary Warehouse and Open Storage of Construction Materials, Machinery and Recyclable Materials (Plastics, Paper and Metal) with Ancillary Workshop and Caretaker's Room (Staff Quarters) for a Period of 3 Years in "Residential (Group D)" zone, Lots 1440 RP, 1441 RP and 1444 RP (Part) in D.D. 121, Tong Yan San Tsuen, Yuen Long (RNTPC Paper No. A/YL-TYST/462)

Presentation and Question Sessions

85. Mr. K.K. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary warehouse and open storage of construction materials, machinery and recyclable materials (plastics, paper and metal) with ancillary workshop and caretaker's room (staff quarters) for a period of 3 years;
- (c) departmental comments – the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) advised that the use of the existing cycle track as vehicular access to the site was not supported from the traffic viewpoint and the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) considered that the applicant's proposed access arrangement which would endanger the safety of cyclists was not acceptable. The Director of Environmental Protection (DEP) did not support the application in view of the sensitive receivers of residential uses in the vicinity of the site and the expected

environmental nuisance. The Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application as the proposed uses would lead to the loss of existing vegetation, and might cause disturbance to the agricultural activities nearby. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) did not support the application from the landscape planning point of view;

- (d) 183 public comments objecting to the application, including 134 comments of 3 standard forms, were received during the statutory publication period. The public comments were mainly from the local residents, management organizations of the nearby Sha Tseng Tsuen and the residential developments and a Yuen Long District Council member. The objection was mainly on the grounds of environmental nuisances and air pollution, environmental hygiene, traffic impact, incompatible land use, fire safety and ecological impact; the loss of agricultural land; the safety concern arising from using the existing bicycle track as the vehicular access to the site; the lowering of property value and worsening of the fung shui of the area. District Office (Yuen Long) had no comment on the application; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 12 of the Paper. The development was not compatible with the surrounding land uses and was not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone and there was no strong planning justification for a departure from the planning intention, even on a temporary basis. The application did not comply with the Town Planning Board Guidelines No. 13E. Moreover, the applicant had not included any technical assessment/proposal in the application to demonstrate that the proposed development would not generate adverse environmental, traffic and landscape impacts on the surrounding areas. Although ten applications for similar open storage uses in the same “R(D)” zone had previously been approved either by the Committee or the Board on review, they were all approved before

October 2001 on sites farther away from the residential developments along Tong Yan San Tsuen Road and Sha Tseng Road. Since October 2001, no further similar application had been approved within the same “R(D)” zone. Approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within this part of the “R(D)” zone. There were strong local objections to the application.

86. The Chairperson said that the proposed use of the existing cycle track as the vehicular access to the application site which would endanger the safety of cyclists should not be supported. In response to the Chairperson’s enquiry, Mr. K.K. Lee said that the safety concern arising from the use of the existing cycle track as the vehicular access to the site was one of the objection grounds held by the public commenters as stated in paragraph 11 of the Paper.

Deliberation Session

87. Given the safety concern on the proposed vehicular access and the adverse comments by the relevant departments, Members agreed that the application should not be supported and their concern on the safety of the vehicular access should be emphasized in the rejection reasons.

88. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed development was not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (b) the proposed development was not compatible with the surrounding land uses which were predominantly rural in character with residential dwellings

and agricultural land to the immediate west and south of the site. No technical assessment had been included in the application to demonstrate that the proposed development would not generate adverse environmental, traffic and landscape impacts on the surrounding areas. The applicant's proposed access arrangement which was to use the existing cycle track as the vehicular access to the application site would pose safety hazards on the cyclists in the area was not acceptable;

- (c) the application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous approval granted at the site and there were adverse comments from Government departments; and
- (d) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the northern part of the subject "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

[The Chairperson thanked Mr. K.K. Lee, STP/TMYL, for his attendance to answer Members' enquires. Mr. Lee left the meeting at this point.]

Agenda Item 21

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TT/248 Temporary Outdoor Mini-Motorcycle Ground with
Ancillary Barbecue Area for a Period of 3 Years
in "Agriculture" zone,
Lots 1811 (Part), 1812 (Part), 1813, 1814 (Part), 1815 S.A to S.D &
S.E to S.J (Part) in D.D. 117 and Adjoining Government Land,
Wong Nai Tun Tsuen, Yuen Long
(RNTPC Paper No. A/YL-TT/248)

Presentation and Question Sessions

89. Ms. S.H. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary outdoor mini-motorcycle ground with ancillary barbecue area for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) advised that two environmental complaints were received against the application site in April and October 2007 relating to the noise and air nuisance from the proposed use. As there were sensitive receivers (SRs) located within 100m of the site boundary, adverse noise impact and nuisance to the nearby SRs from the proposed use were envisaged. The Director of Agriculture, Fisheries and Conservation (DAFC) considered that the potential for agricultural rehabilitation at the site seemed high and did not favour the application from the agricultural development point of view;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 11 of the Paper. Despite DEP's concerns on the adverse noise impact and the noise nuisance to the nearby sensitive uses, the previous application (No. A/YL-TT/221) at the site was approved on review by the Town Planning Board on 16.5.2008 for a period of 1 year until 16.5.2009 on sympathetic consideration that the applied use was for private recreation purpose and possible adverse impacts could be minimized by imposing appropriate approval conditions. The planning approval was, however, revoked on 16.10.2008 as the applicant failed to comply with approval conditions. According to the applicant, he

was unable to comply with conditions owing to some financial disputes between the applicant and his former planning consultant. The site, however, was currently being used for the applied use without a valid planning permission. There was no change in planning circumstances since the approval of the previous application. The applied use was not in line with the planning intention of the “Agriculture” (“AGR”) zone. As DEP raised the same concerns in the present application, there were doubts as to whether the possible adverse environmental impacts on the surroundings could be addressed by imposing approval conditions. Moreover, two environmental complaints were received against the site in April and October 2007 related to noise and air nuisance from the proposed use and thus adverse noise impact and nuisance to the nearby sensitive receivers from the proposed use were envisaged. The DAFC did not favour the application from the agricultural development point of view. Also, no technical submission including drainage and fire service installations proposals had been submitted to demonstrate that the applied use would have no adverse impacts on the drainage and fire safety aspects and the submitted landscape proposal was not acceptable.

90. Members had no question on the application.

Deliberation Session

91. The Chairperson said that as the planning permission for the previous application was revoked due to non-compliance with the approval conditions and the applicant did not submit any technical assessments/proposals in the present application to demonstrate that the proposed development would not have adverse impacts on the surrounding environment, there was no ground to support the application. Members agreed.

92. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) adverse noise impact and nuisance from the development were envisaged. There was insufficient information in the submission to demonstrate that

the development would not generate adverse environmental impact on the surrounding areas; and

- (b) no technical submission including drainage and fire service installations proposals had been submitted to demonstrate that the applied use would have no adverse impacts on the vicinity on the drainage and fire safety aspects.

[Mr. Rock C.N. Chen returned to join the meeting at this point.]

Agenda Item 22

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TT/249 Temporary Eating Place for a Period of 3 Years
in “Village Type Development” zone,
Lots 1256 (Part), 1258 (Part), 1259 RP (Part) and
1299 RP (Part) in D.D.117 and Adjoining Government Land,
Tai Tong Shan Road, Tai Tong, Yuen Long
(RNTPC Paper No. A/YL-TT/249)

Presentation and Question Sessions

93. Ms. S.H. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary eating place for a period of 3 years
- (c) departmental comments – the District Lands Officer/Yuen Long, Lands Department (DLO/YL, Lands D) did not support the planning application as the applicant failed to accept his offer of Short Term Tenancy (STT) in 2004 to regularize the irregularities on-site and considered that there was

no prospect of regularization;

- (d) one public comment objecting to the application was received from a resident of Tung Tau Tsuen during the statutory publication period. The objection grounds included unauthorized emission of fume; illegal occupation of Government land on the site; the erection of a large number of unauthorized structures; unhygienic condition resulting from inadequate sewage disposal facilities; the risks to traffic and pedestrian safety resulting from insufficient on-site parking spaces and roadside parking along Tai Tong Shan Road. No local objection was received by the District Officer (Yuen Long); and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. The site was granted approval for the same temporary use three times (Applications No. A/YL-TT/114, 149 and 192) and conditions related to vehicular access, landscape and drainage were complied with. There was no major change in planning circumstances from the previous planning approval. Although the development was not entirely in line with the planning intention of the “Village Type Development” (“V”) zone, it was considered not incompatible with the surrounding land uses. There was no Small House application at the site. Approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone. The development generally complied with the TPB PG-No.15A for “Application for Eating Place within “V” Zone in Rural Areas under section 16 of the Town Planning Ordinance”. Although DLO/YL did not support the planning application, an advisory clause was included to remind the applicant to resolve the land issue with DLO/YL, and the applicant would be warned that should he fail to resolve the issue with DLO/YL to regularize the said irregularities, favourable consideration might not be given to any renewal application unless under exceptional circumstances. Relevant approval conditions were recommended to address the technical concerns of the relevant Government departments. As regards the local concerns, DEP had not received any complaints

against the restaurant at the site in the past 3 years. A discharge licence to control the effluent discharge of the restaurant had also been granted with a validity period until 31.3.2011. Other relevant departments did not have adverse comments on the application on the traffic impacts and building aspects. The applicant would also be advised to undertake the environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action. However, as the last two approvals (Applications No. A/YL-TT/149 and 192) for the same temporary use were revoked due to non-compliance with the approval conditions related to the provisions of emergency vehicular access, water supplies for fire and fire service installations (FSIs), shorter compliance periods were proposed to monitor the progress of compliance should the Committee decide to approve the application. Moreover, the applicant would be advised that should the planning permission be revoked again due to non-compliance with the approval conditions, sympathetic consideration would not be given to any further application.

94. The Chairperson was concerned that since planning approval had been granted for a considerable period of time since 2001, it was unreasonable for the applicant not to comply with the approval conditions, in particular the provisions of water supply for fire fighting and the FSIs facilities which were essential installations for the operation of a restaurant. The Chairperson pointed out that in other similar cases, it was the practice of the TPB to grant shorter approval and compliance periods in order to ensure a close monitoring of the situation and the applicant’s progress of compliance of approval conditions.

Deliberation Session

95. The Chairperson was of the view that since the planning permission for the proposed use at the site had been revoked twice, it might be appropriate for Members to consider to step up the monitoring by granting a short approval period to less than 3 years and

shorter compliance periods in the present application to be in line with the TPB practice in other similar cases. In response, the Secretary said that for cases with records of repeated non-compliance of approval conditions, the TPB's practice recently adopted was to grant a shorter approval period and to impose shorter compliance periods i.e. within 3 months for the submission of proposed measures and within 6 months for the implementation of measures, as compared to the normal allowance of within 6 months for submission and within 9 months for implementation of measures. An advisory clause would also be included in the planning approval to warn the applicant that in case the applicant failed to comply with the approval conditions resulting in the revocation of the planning approval again, sympathetic consideration would not be given to any further application. However, despite the fact that the planning permission for the proposed use at the application site were revoked twice, such a fore warning clause had not been stipulated in the previous planning permissions, hence a shorter approval period was recommended to give a last chance to the applicant.

96. A Member was concerned that if the FSIs were not provided in the subject eating place, it might put fire risks on its customers. The concern was shared by other Members. After discussion, Members agreed that the applicant should be given a last chance and be warned that should the planning permission be revoked again due to non-compliance with the approval conditions, sympathetic consideration would not be given to any further application for the same use.

97. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.11.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no operation between 10:00 p.m. to 6:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no medium and heavy goods vehicles (i.e. exceeding 5.5 tonnes) as defined in the Road Traffic Ordinance or container trailers/tractors, as proposed by the applicant, were allowed to be parked/stored on the site during the planning approval period;
- (c) the existing trees and landscape plantings on the site should be maintained

at all times during the planning approval period;

- (d) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (e) the submission of run-in/out proposals within 3 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.2.2010;
- (f) in relation to (e) above, the provision of run-in/out within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.5.2010;
- (g) the submission of fire service installations proposals within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.2.2010;
- (h) in relation to (g) above, the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.5.2010;
- (i) if any of the above planning conditions (a), (b), (c) or (d) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (j) if any of the above planning conditions (e), (f), (g) or (h) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

98. The Committee also agreed to advise the applicant the following :

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

- (b) shorter compliance periods were imposed in order to monitor the progress of compliance of conditions;
- (c) should the planning permission be revoked due to non-compliance with the approval conditions again, sympathetic consideration would not be given by the Committee to any further application for the same use;
- (d) to resolve any land issues relating to the development with the concerned owners of the site;
- (e) to note District Lands Officer/Yuen Long's (DLO/YL) comments that no structures were allowed to be erected without prior approval from his office. The Government land (GL) within the site was also occupied without approval from his office. He reserved the right to take land control action against the irregularities if indeed found in due course. The subject lots within the site were covered by Short Term Waivers (STWs). If there were breaches of conditions of the STWs, his office would initiate appropriate enforcement action. The applicant should obtain from DLO/YL a Short Term Tenancy (STT) for regularization of the unauthorized occupation of GL on-site. Should the applicant fail to resolve the issue with DLO/YL, favourable consideration might not be given to any renewal application unless under exceptional circumstances;
- (f) to note the Assistant Commissioner for Transport/New Territories, Transport Department's (TD) comments that the land status of the road/path/track leading to the site should be checked with the lands authority. Furthermore, the management and maintenance responsibilities of the same road/path/track should be clarified and consulted with the relevant lands and maintenance authorities accordingly;
- (g) to note the Chief Highway Engineer/New Territories West, Highways Department's (HyD) comments that the access arrangement to the site from Tai Tong Shan Road should be commented and agreed by TD. If TD

agreed to the access arrangement, the applicant should construct a run-in/out at the access points at Tai Tong Shan Road in accordance with the latest version of Highways Standard Drawings No. H1113 & H1114 or H5115 & H5116, whichever set was appropriate to match with the existing pavement condition. Adequate drainage measures should be provided at the site access to prevent surface water flowing from the site to nearby public roads/drains. HyD should not be responsible for the maintenance of any access connecting the site and Tai Tong Shan Road;

- (h) the applicant was advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by Environmental Protection Department for implementation of appropriate mitigation measures. In particular, the applicant should be reminded of his obligation under the Water Pollution Control Ordinance (WPCO) and the effluent from the operation should meet the WPCO requirements prior to discharge;
- (i) to note the Director of Fire Services comments that in consideration of the design/nature of the proposed structures, fire service installations (FSIs) were anticipated to be required. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. In formulating FSIs proposal for the proposed structures, the applicant was advised to make reference to the requirements as stated in Appendix IV of the Paper;
- (j) to note the Director of Food and Environmental Hygiene's comments that the applicant should be reminded that a separate food licence issued by his department after consultation and favorable comments from relevant government departments, and compliance of relevant restaurant licensing requirements and conditions would be required if food business would be carried on the premises. The type of licence required would depend on the mode of business to be conducted thereat. For obtaining information regarding licence application, the applicant could approach his Restaurant Licensing Resource Centre for advice. The proprietor should take up the

management responsibility and to prevent any nuisance arising from the premises;

- (k) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the unauthorized structures on-site should be removed, which were liable to action under section 24 of the Buildings Ordinance (BO). The granting of the planning approval should not be construed as condoning to any unauthorized structures existing on the site under the BO and the allied regulations. Appropriate action under the said Ordinance or other enactment might be taken if contravention was found. Containers used as offices or store were considered to be temporary buildings and were subject to control under Building (Planning) Regulations (B(P)R) Part VII. Formal submission under the BO was required for any proposed new works, including any temporary structure. If the site was not abutting on a specified street having a width not less than 4.5m, the development intensity should be determined under (B(P)R) 19(3) at building plan submission stage. Provision of emergency vehicular access was applicable under B(P)R 41D; and

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

should be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.

[The Chairperson thanked Ms. S.H. Lam, STP/TMYL, for her attendance to answer Members' enquires. Ms. Lam left the meeting at this point.]

Agenda Item 23

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/649 Temporary Open Storage of Marble for a Period of 3 Years
in "Comprehensive Development Area" zone,
Lots No. 766 in D.D.125 and Adjoining Government Land,
Ha Tsuen, Yuen Long
(RNTPC Paper No. A/YL-HT/649)

Presentation and Question Sessions

99. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary open storage of marble for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive users (SRs) in the vicinity of the site and along the access road and environmental nuisance was expected. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D) and the Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application from the landscape planning and nature conservation points of view respectively;

- (d) one public comment objecting to the application was received during the statutory publication period from a Yuen Long District Council member. The objection ground was that the previous planning permissions were revoked due to non-compliance with approval conditions, reflecting the applicant's lack of sincerity. No local objection was received by the District Officer (Yuen Long); and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 12 of the Paper. The applied use was incompatible with the residential dwellings to its immediate east and northeast which were about 40m away. DEP did not support the application for environmental considerations. As the application site had encroached upon a well-vegetated knoll of high landscape and nature conservation value, both CTP/UD&L of PlanD and DAFC had reservation on the application from the landscape and nature conservation perspectives. Despite the Committee's repeated tolerance under Applications No. A/YL-HT/536 and 583 of similar open storage use at the site on sympathetic grounds, the applicant did not comply with the approval conditions nor applied for extension of the compliance periods under the said approvals. The applicant had been warned under the previous approval of Application No. A/YL-HT/583 that no favourable consideration to further planning application would be given if the permission was again revoked for non-compliance with the approval conditions within the specified time frame. The Committee had rejected the previous application No. A/YL-HT/620 for the similar temporary open storage use by the same applicant on 5.6.2009 noting the applicant's repeated failures to comply with the approval conditions of the previous planning permissions. Since rejecting the previous application in June 2009, there had been no material change in the planning circumstances. The application also did not meet the TPB Guidelines No. 13E in that there were major adverse departmental comments and no assessment had been included in the submission to address such adverse comments and demonstrate that the applied use would not have adverse landscape, nature conservation and environmental impacts on the surrounding area.

Rejection of the subject application was in line with the Committee's previous decision.

100. Members had no question on the application.

Deliberation Session

101. As the applicant had been warned that no further application would be approved if the applicant failed to comply with the approval conditions, and there were serious doubts that the potential impacts of the development could be addressed by way of approval conditions, Members agreed that the application should not be supported.

102. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the development would have adverse landscape, nature conservation and environmental impacts on the surrounding areas, and the submitted information could not demonstrate that the adverse landscape, nature conservation and environmental impacts could be mitigated; and
- (b) previous planning permissions granted to the applicant under Applications No. A/YL-HT/536 and 583 were revoked due to non-compliance with approval conditions. Approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses which were also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control.

Agenda Item 24

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/650 Temporary Public Vehicle Park for Private Cars, Light and Heavy Goods Vehicles and Container Tractors/Trailers with Ancillary Freight Forwarding Facility and Vehicle Repair Workshop for a Period of 3 Years in “Comprehensive Development Area” zone, Lots No. 805 S.B RP, 807 RP, 808 RP, 809 RP (Part), 813 RP (Part), 814 RP (Part), 815 (Part) and 816 S.B RP (Part) in D.D. 125, Ha Tsuen, Yuen Long
(RNTPC Paper No. A/YL-HT/650)

Presentation and Question Sessions

103. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary public vehicle park for private cars, light and heavy goods vehicles and container tractors/trailers with ancillary freight forwarding facility and vehicle repair workshop for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive users (SRs) in the vicinity of the site and along the access road and environmental nuisance was expected.
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the

application based on the assessment made in paragraph 12 of the Paper. The applied use was not incompatible with the surrounding uses within the subject “Comprehensive Development Area” (“CDA”) zone. Approval of the application on a temporary basis would not frustrate the planning intention of the “CDA” zone since there was not yet any programme/known intention to implement the zoned use. The development was in line with the Town Planning Board Guidelines No. 13E. Though DEP did not support the application, there had not been any environmental complaint against the site over the past three years despite that the parking use and the ancillary workshop and freight forwarding use had been in operation for some time. In view of DEP’s concerns, a shorter approval period of one year, instead of the three-year period sought, and shorter compliance periods were recommended to monitor the situation and the progress of compliance by the applicant should the Committee decide to approve the application. Any non-compliance with these approval conditions would result in revocation of the planning permission and subject to enforcement action. The applicant would also be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimize the possible environmental impacts on the adjacent areas. The Committee/the Town Planning Board had recently approved a number of similar applications for various temporary open storage/ port back-up uses within the same “CDA” zone. Approval of the subject application was in line with the Committee’s previous decisions.

104. Members had no question on the application.

Deliberation Session

105. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 1 year until 6.11.2010, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 11:00 pm to 7:00 am, as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no vehicle without valid licence/registration, as proposed by the applicant, was allowed to be parked on the site during the planning approval period;
- (d) the setting back of the site from the works limit of the Contract No. CV/2006/01 “Ping Ha Road Improvement Works (Ha Tsuen Section)”;
- (e) the existing trees on the site should be maintained at all times during the planning approval period;
- (f) the existing drainage facilities implemented under the previous approved Application No. A/YL-HT/587 should be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities approved under Application No. A/YL-HT/422 within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.2.2010;
- (h) the submission of run-in/out proposal within 3 months from the date of planning approval to the satisfaction of the Director of Highways or of the TPB by 6.2.2010;
- (i) in relation to (h) above, the implementation of run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the TPB by 6.5.2010;
- (j) the submission of fire service installations proposals within 3 months from the date of planning approval to the satisfaction of the Director of Fire

Services or of the TPB by 6.2.2010;

- (k) in relation to (j), the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010;
- (l) the provision of fencing for the site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.2.2010;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (n) if any of the above planning conditions (g), (h), (i), (j), (k) or (l) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (o) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

106. The Committee also agreed to advise the applicant the following :

- (a) prior planning permission should have been obtained before commencing the development on-site;
- (b) shorter approval and compliance periods were imposed in order to monitor the situation of the site and its surroundings, and the fulfillment of approval conditions;
- (c) to resolve any land issues relating to the development with the concerned

owner(s) of the application site;

- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots granted under the Block Government Lease upon which no structure was allowed to be erected without prior approval from his office; and to apply for Short Term Tenancy (STT)/Short Term Waiver (STW) to regularize the unauthorized occupation of Government land and unauthorized structures on-site. Should no STT/STW application be received/approved and the irregularities persist on-site, his office would consider taking lease enforcement/control action against the occupier/registered owners;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance;
- (f) to note the Assistant Commissioner for Transport/New Territories, Transport Department's comments that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided at the site entrance to prevent runoff flowing from the site onto the nearby public roads/drains;
- (h) to note the comments of the Chief Engineer/Land Works, Civil Engineering and Development Department that the access road to the site was located near Ping Ha Road which was within the works limit of Contract No. CV/2006/01 "Ping Ha Road Improvement Works (Ha Tsuen Section)", the construction works for which had already commenced in December 2007

for completion in end 2010. The ingress/egress route to/from the site might be affected during the construction period for the widening of Ping Ha Road and the applicant should not be entitled for any compensation thereof;

- (i) to note the comments of the Director of Fire Services on the requirements of formulating the fire service installations proposals as stated in Appendix V of the Paper; and
- (j) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the granting of this planning permission should not be construed as condoning to any unauthorized structures existing on site under the Buildings Ordinance (BO) and the allied regulations; actions appropriate under the BO or other enactment might be taken if contravention was found; formal submission of any proposed new works, including any temporary structures, for approval under the BO was required, and Authorized Person must be appointed to coordinate all building works.

Agenda Item 25

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/651 Temporary Vehicle Park for Private Cars, Light and Heavy Goods Vehicles and Container Trailers and Tractors with Ancillary Workshop for a Period of 3 Years in “Comprehensive Development Area” zone, Lots No. 60 (Part), 63 (Part), 65 (Part), 66, 67(Part), 68, 69 (Part), 70, 71 and 72 RP(Part) in D.D.128, Lots No. 3018 (Part), 3019(Part), 3021 (Part), 3022, 3024 RP (Part) and 3025 RP (Part) in D.D.129 and Adjoining Government Land, Ha Tsuen, Yuen Long
(RNTPC Paper No. A/YL-HT/651)

Presentation and Question Sessions

107. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary vehicle park for private cars, light and heavy goods vehicles and container trailers and tractors with ancillary workshop for a period of 3 years;
- (c) departmental comments – the District Lands Officer/Yuen Long, Lands Department (DLO/YL, Lands D) did not support the planning application as the applicant failed to accept his offer of Short Term Tenancy (STT) in 2004 to regularize the irregularities on-site and considered that there was no prospect of regularization. The Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the site and environmental nuisance was expected;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. The applied use was not incompatible with the surrounding uses within the subject “Comprehensive Development Area” (“CDA”) zone. Approval of the application on a temporary basis would not frustrate the planning intention of the “CDA” zone since there was not yet any programme/known intention to implement the zoned use. The development was in line with the Town Planning Board Guidelines No. 13E. Although DLO/YL did not support the planning application, an advisory clause was included to remind the applicant to resolve the land issue with DLO/YL, and he would be warned that should he fail to resolve the issue with DLO/YL to regularize the said irregularities, favourable consideration might not be given to any renewal application unless under exceptional

circumstances. Though DEP did not support the application, there had not been any environmental complaint against the site over the past three years despite that the parking use, particularly the parking of container tractors and heavy goods vehicles, and ancillary workshop had been in operation for some time. In view of DEP's concerns, a shorter approval period of one year, instead of the three-year period sought, and shorter compliance periods were recommended to monitor the situation and the applicant's progress of compliance of the approval conditions should the Committee decide to approve the application. The concerns of DEP and D of FS could be addressed by way of approval conditions. Non-compliance with any of these approval conditions would result in revocation of the planning permission and subject to enforcement action. The applicant would be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize the possible environmental impacts on the adjacent areas. The Committee had approved previous applications for container trailer parking use on the application site since 1999 and recently approved similar applications for various temporary open storage/port back-up uses within the same "CDA" zone. Approval of the subject application was in line with the Committee's previous decisions. Since the previous Application No. A/YL-HT/593 was revoked due to non-compliance with the approval conditions, should the Committee decide to approve the application, the applicant would be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application.

108. Members had no question on the application.

Deliberation Session

109. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 1 year until 6.11.2010, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the

following conditions :

- (a) no night-time operation between 7:00 pm to 7:00 am, as proposed by the applicant, was allowed on the site during the approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) the maintenance of all existing vegetation on the site at all times during the planning approval period;
- (d) the existing drainage facilities implemented under the previous approved Application No. A/YL-HT/593 should be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities on-site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.2.2010;
- (f) the submission of fire service installations proposals, including sprinkler system, within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.2.2010;
- (g) in relation to (f), the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010;
- (h) if any of the above planning conditions (a), (b), (c) or (d) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (i) if any of the above planning conditions (e), (f) or (g) was not complied with by the above specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and

- (j) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

110. The Committee also agreed to advise the applicant the following :

- (a) prior planning permission should have been obtained before continuing the development on-site;
- (b) shorter approval and compliance periods were imposed in order to monitor the situation of the site and its surroundings, and the fulfillment of approval conditions. Should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application;
- (c) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (d) to note the comments of the District Lands Officer/Yuen Long (DLO/YL) that the site was situated on Old Schedule Agricultural Lots granted under the Block Government Lease upon which no structure was allowed to be erected without prior approval from his office; his office reserved the right to take lease enforcement/control action against the unauthorized occupation of Government land and unauthorized structures on-site if indeed found in due course; and to apply for Short Term Tenancy (STT)/Short Term Waiver (STW) to regularize the unauthorized occupation of Government land and unauthorized structures on-site. Should the applicant fail to accept DLO/YL's offer of STT/STW to regularize the said irregularities, favourable consideration might not be given to any renewal application unless under exceptional circumstances;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of

Environmental Protection to minimize any potential environmental nuisance;

- (f) to note the Assistant Commissioner for Transport/New Territories, Transport Department's comments that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (g) to note the comments of the Chief Highway Engineer/New Territories West that adequate drainage measures should be provided to prevent surface runoff flowing from the site onto nearby public roads and drains through the site access;
- (h) to note the Director of Fire Services' comments on the requirements of formulating fire service installations proposals as stated in Appendix V of the Paper; and
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the granting of this planning permission should not be construed as condoning to any unauthorized structures existing on site under the Buildings Ordinance (BO) and the allied regulations; actions appropriate under the BO or other enactment might be taken if contravention was found; containers used as offices and store were considered to be temporary buildings and were subject to control under Building (Planning) Regulations (B(P)R) Part VII; formal submission under BO was required for any proposed new works, including any temporary structure; if the site was not abutting on a specified street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage; provision of emergency vehicular access was applicable under B(P)R 41D.

Agenda Item 26

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/241 Temporary Cargo Handling, Forwarding Facility and Container Vehicle Park for a Period of 3 Years
in “Open Storage” zone,
Lots 1376 (Part), 1377 (Part), 1378 and 1379 in D.D. 102 and
Adjoining Government Land, Ngau Tam Mei, Yuen Long
(RNTPC Paper No. A/YL-NTM/241)

Presentation and Question Sessions

111. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary cargo handling, forwarding facilities and container vehicle park for a period of 3 years;
- (c) departmental comments – the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) commented he had no comment on the application in view of the low daily traffic flow. The Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers in the vicinity of the site and environmental nuisance was expected;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. Previous approval (No. A/YL-NTM/237) for temporary cargo handling and forwarding facilities at the application site had been granted by the

Committee on 19.6.2009 and the current application involved the addition of a container vehicle park. There was no major change in the planning circumstances in the area. The continuation of similar uses at the site could be given sympathetic consideration. The proposed uses were also generally in line with the planning intention of the “Open Storage” (“OS”) zone. They were not incompatible with the surrounding uses and were in line with the Town Planning Board Guidelines No. 13E. While DEP did not support the application, no complaints about the site were received from 2006 to 2009. To address DEP’s concerns and mitigate any potential environmental impacts, relevant approval conditions were recommended. To address the technical concerns raised by relevant departments, relevant approval conditions were recommended. Any non-compliance with any of these approval conditions would result in revocation of the planning permission and subject to enforcement action. The applicant would be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts on the adjacent areas. Recent similar applications in the locality within the same “OS” zone were approved by the Committee or the Board based on similar considerations. Approval of the subject application was in line with the Committee’s or the Board’s previous decisions. Since the previous Application No. A/YL-NTM/217 was revoked due to non-compliance with the approval conditions, shorter compliance periods were proposed to the last approval under A/YL-NTM/237. It was recommended that the same shorter compliance periods should be given to monitor the progress of compliance should the Committee decide to approve the application. The applicant would be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application.

112. Members had no question on the application.

Deliberation Session

113. Noting that there were some residential uses in the vicinity of the application site, a Member enquired about the restriction on the operation hours to be imposed for the applied use on the site. In response, Mr. Anthony C.Y. Lee said that the currently proposed restrictions on the operation hours had made reference to the approval conditions stipulated for the two previous applications (Nos. A/YL-NTM/217 and A/YL-NTM/237) for similar uses by the same applicant at the site. The Secretary supplemented that the proposed conditions restricting the no night-time operation was in accordance with the “Code of Practice on Handling Environmental Aspects of Temporary Uses & Open Storage Sites” issued by Environmental Protection Department. After discussion, Members agreed to follow the conditions on the operation hours for the present application as suggested in the Paper.

114. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.11.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 11:00 p.m. and 7:00 a.m. was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays between 5:00 p.m. and 10:00 a.m. was allowed on the site during the planning approval period;
- (c) no cutting, dismantling, cleansing, repairing and workshop activity, including container repair and vehicle repair, was allowed on the site during the planning approval period;
- (d) the submission of a tree monitoring report every 3 months from the date of planning approval during the approval period to the satisfaction of the Director of Planning or of the TPB;
- (e) the submission of landscaping and tree preservation proposal within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.2.2010;

- (f) in relation to (e) above, the implementation of landscaping and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.5.2010;
- (g) the submission of drainage proposal within 3 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.2.2010;
- (h) in relation to (g) above, the provision of drainage facilities proposed within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.5.2010;
- (i) the submission of fire service installations proposals within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.2.2010;
- (j) in relation to (i) above, the provision of fire service installations proposed within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010;
- (k) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (l) if any of the above planning conditions (d), (e), (f), (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

115. The Committee also agreed to advise the applicant the following :

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

- (b) shorter compliance periods were given to monitor the progress of compliance. Should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (c) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (d) to note District Lands Officer/Yuen Long's (DLO/YL) comments that the site includes Old Schedule Agricultural Lots held under the Block Government Lease under which no structures were allowed to be erected without prior approval from his Office. The site also included some Government land (GL) and his Office had no permission for its occupation. His Office reserved the right to take lease enforcement/control action if irregularities were indeed found on the site; Letter of Approval (L of A) and Modification of Tenancy (MOT) No. M 9782 and M 9786 were issued for erection of structures over Lots 1377 and 1378 in D.D. 102 respectively for agricultural and accommodation purposes. If structures of else purpose were found on the above lots, his Office would arrange to terminate the L of A and MOT as appropriate; In view of the undertaking mentioned in Appendix Ia of the Paper, he had no objection to the application. However, should planning approval be granted, the registered owner(s) of the relevant lot(s)/occupier should apply for Short Term Waiver (STW) and Short Term Tenancy (STT) to regularise the irregularities on-site. Should no application be received/approved and the irregularities persist on site, his office would consider taking appropriate lease enforcement action against the registered owner(s). The ingress/ egress of the site did not abut on Ka Lung Road. A short track ran through a piece of open GL without maintenance works to be carried out thereon by this office provided accessibility to the site. Also, his Office would not guarantee right-of-way;

- (e) to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by Environmental Protection Department to minimize potential environmental impacts on the surrounding areas;

- (f) to note the Chief Engineer/Mainland North, Drainage Services Department’s comments that the application was the subject of a previous application No. A/YL-NTM/237 and the drainage proposal was not yet to the satisfaction of his office. As such, the applicant was required to submit a drainage proposal. The approval of the drainage proposal must be sought prior to the implementation of drainage works on site. After completion of the drainage implementation works, the applicant was required to provide his office for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. His Office would inspect the completed drainage works jointly with the applicant with reference to the set of photographs. Peripheral channels should be provided around and within the site boundary. The applicant was required to ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas. No public stormwater drainage maintained by his Office was currently available for connection. The area was probably being served by some of the existing local village drains. The village drains were probably maintained by DO(YL). The applicant should approach DO(YL) if he wished to know more about these drains. If the proposed discharge point was to these drains, the applicant should seek an agreement from the relevant department on the proposal. No public sewerage maintained by his Office was currently available for connection. For sewage disposal and treatment, agreement from the Director of Environmental Protection should be obtained. The applicant was reminded that the proposed drainage proposal/ works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction. The applicant should consult DLO/YL regarding all the proposed drainage works outside the lot boundary in order to ensure the unobstructed discharge from the application

site in future. All the proposed drainage facilities should be constructed by the applicant at his own cost. The applicant was fully responsible for the proper maintenance of the drainage facilities on site.

- (g) to note the Director of Fire Services' comments that fire service installations (FSIs) were anticipated to be required in consideration of the design/nature of the proposed structures. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. In formulating the FSIs proposal for the proposed structures, the applicant should observe the requirements as indicated in Appendix V of the Paper. If the applicant wished to apply for exemption from the provision of certain FSIs, justifications should be provided to his department for consideration. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans; and his detailed comments on the application were in Appendix V of the Paper; and

- (h) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of this planning approval should not be construed as condoning to any structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the BO or other enactment might be taken if contravention was found; use of containers as office and store were considered as temporary buildings and were subject to control under Building (Planning) Regulations (B(P)R) Part VII; and formal submission of any proposed new building works including any temporary structures for approval under the BO was required. If the site did not abut on a specified street having a width of not less than 4.5m wide, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage.

Agenda Item 27

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/242 Temporary Container Storage Yard and Container Vehicle Park with Ancillary Vehicle Repair Workshops and Site Offices for a Period of 3 Years in “Open Storage” zone, Lots 781(Part), 784(Part), 785-792, 793(Part), 794(Part), 795(Part), 796(Part), 797, 798(Part), 799-811, 812SA-SB, 813(Part), 814(Part), 815(Part), 816(Part), 817(Part), 819(Part), 820, 821, 823, 824(Part), 826RP(Part), 827, 828, 829(Part) in D.D. 102; Lots 295RP, 296, 297RP, 298RP, 299RP, 396RP(Part) in D.D. 105 and Adjoining Government Land, Ngau Tam Mei, Yuen Long (RNTPC Paper No. A/YL-NTM/242)

Presentation and Question Sessions

116. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary container storage yard and container vehicle park with ancillary vehicle repair workshops and site offices for a period of 3 Years;
- (c) departmental comments – the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) advised that an unauthorized bridge structure was found erected over a stream on the Government land (GL) connecting the northern and southern portion of the application site. DLO/YL, LandsD reserved the right to initiate land control action against the unauthorized bridge as deemed appropriate. The Director of Environmental Protection (DEP) did not support the application in view of the sensitive receivers in the vicinity of the site and the expected environmental nuisance. The Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application. Although the

applicant indicated that pond filling was not involved, it was revealed in DAFC's recent site inspection that the ponds within the site had been filled and used as open storage. The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) did not support the application as the site was filled up and had deprived the flood plain area, and it would create adverse drainage impact on the adjacent areas. The Commissioner of Police (C of P) advised that there were a total of 10 reports complaining either traffic congestion or vehicle obstruction caused by the queuing of container trucks/heavy vehicles in the vicinity of Shek Wu Wai Road and Castle Peak Road near Mai Po Tsuen during the period between 1.7.2009 to 14.10.2009. On all occasions, police were required to the scene for traffic control;

- (d) two public comments objecting to the application were received during the statutory publication period due to land dispute and traffic and road safety issue. A letter stating a local objection from a villager of Shek Wu Wai was received by the District Officer (Yuen Long) ; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 12 of the Paper. Though the proposed use was generally in line with the planning intention of the "Open Storage" ("OS") zone, it did not comply with the Town Planning Board Guidelines No. 13E, there were major adverse departmental comments from the CE/MN, DSD, DEP and AFCD, and local objections. The CE/MN, DSD did not support the application as DSD had received various complaint cases for the site since 2005 and the applicant had not submitted any drainage study report or drainage proposal to demonstrate that the proposed use would not cause adverse drainage impact on the surrounding areas. The DEP did not support the application in view of the sensitive receivers in the vicinity of the site, and the DAFC maintained that part of the site which was fish ponds should be preserved for fish culture activities. The applicant failed to demonstrate how DLO/YL's concern on the illegal erection of a bridge over GL could be adequately addressed. In the absence of this bridge, it seemed that the

entire south eastern portion of the site would be inaccessible. According to the C of P, there were complaints on the traffic congestion on vehicle obstruction and traffic control by the Police was required.

117. Members had no question on the application.

Deliberation Session

118. In view of the adverse comments from the relevant departments, Members agreed that the application should not be supported and the adverse comments from the concerned departments should be reflected clearly in the rejection reason.

119. After further deliberation, the Committee decided to reject the application and the reason was that the temporary container storage yard and container vehicle park with ancillary vehicle repair workshops and site offices was not in line with the Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” in that there was adverse departmental comments regarding the possible adverse environmental impacts on the sensitive receivers in the vicinity of the site, the adverse drainage impact on the adjacent areas, and traffic obstruction caused by queuing of container trucks/heavy vehicles in the vicinity of Shek Wu Wai Road and Castle Peak Road near Mai Po Tsuen. No technical assessment had been submitted to demonstrate that the development would not have adverse environmental, drainage and traffic impacts on the surrounding areas.

Agenda Item 28

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/243 Renewal of Planning Approval for Temporary ‘Open Storage of Landscaping Materials’ Use for a Period of 3 Years in “Green Belt” zone, Lot 882 (Part) in D.D. 105, Shek Wu Wai San Tsuen, Ngau Tam Mei, Yuen Long
(RNTPC Paper No. A/YL-NTM/243)

Presentation and Question Sessions

120. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the renewal of planning approval for temporary 'open storage of landscaping materials' use for a period of 3 years;
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) did not favour the renewal application and considered that though the site had been paved and was currently used as an open storage, it had a high potential of rehabilitation for agricultural uses;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. The application site was the subject of four previous applications (No. A/YL-NTM/118, 135, 188 and 220) submitted by the same applicant for

the same use approved by the Board upon review/the Committee. The current application was the third planning application for renewal approval for the same use at the same site by the same applicant. There had been no change in planning circumstances, and the applicant had complied with all the approval conditions on landscaping, drainage and fencing. Although the site fell within the “Green Belt” (“GB”) zone and Category 4 areas under the Town Planning Board Guidelines No. 13E, the proposed use under the current application was different from the usual temporary open storage uses which generally created environmental nuisances to some extent. The current applications covered only a small site (350m²) and was intended for the temporary open storage of landscaping materials which was not incompatible with the surrounding uses characterised by unused land and pigsties; and approval of the application on a temporary basis would not frustrate the long-term planning intention of the “GB” zone. As such, sympathetic consideration could be given to the application in term of its nature (i.e. materials to be stored on site), the size of the application site and its surrounding environment. No adverse planning implications arising from the renewal of the approval were expected and relevant Government departments had no adverse comments on the application. Regarding DAFC’s comment that the site had high potential of rehabilitation for agricultural uses, temporary use of the site would not preclude rehabilitation for agricultural use in future. Approval of the current application was consistent with the Board/Committee’s previous decisions on applications at the site. However, since it was stated in TPB Guidelines No.13E that a maximum period of 2 years might be allowed upon renewal of planning permission and the last permission was also granted for 2 years, it was recommended that permission should be renewed for 2 years instead of 3 years as sought.

121. In response to the Chairperson’s enquiry, Mr. Anthony C.Y. Lee clarified that the latest application No. A/YL-NTM/220 was approved with conditions by the Committee on 16.11.2007 for a period of 2 years. The present application was for the renewal of the planning permission under Application No. A/YL-NTM/220.

Deliberation Session

122. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 2 years until 6.11.2011, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no medium or heavy goods vehicles, exceeding 5.5 tonnes, were allowed for the operation of the site at any time during the planning approval period;
- (b) the existing vegetations on the site should be maintained at all times during the planning approval period;
- (c) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (d) the submission of a condition record of the existing drainage facilities on site within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.5.2010;
- (e) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (f) if the above planning condition (d) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (g) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

123. The Committee also agreed to advise the applicant the following :

- (a) a shorter approval period was granted so as to monitor the situation;
- (b) to submit the up-dated as-planted plan to the Chief Town Planner/Urban Design and Landscape, Planning Department for record purpose;
- (c) to note District Lands Officer/Yuen Long's (DLO/YL) comments that the site under application was Old Schedule Agricultural Lot held under the Block Government Lease under which no structures were allowed to be erected without prior approval from his Office; and it was accessible through an informal village track straddling on private land and Government Land (GL) on which a GLA-TYL802 was granted to Water Supplies Department. His office did not provide maintenance works on GL nor guaranteed right-of-way;
- (d) to follow the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department to minimize potential environmental impacts on the surrounding areas;
- (e) to note the Assistant Commissioner for Transport/New Territories, Transport Department's advice that the land status of the road/path/track leading to the site from a public road should be checked with the land authority; and the management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) to note the Chief Engineer/Mainland North, Drainage Services Department's comments that he noted that the applicant had implemented the drainage facilities on site under the previous planning application No. A/YL-NTM/135 and the drainage implementation works was considered satisfactory. Under the current application, the site area was not much different from the previous applications. Therefore, the

drainage proposal submitted under current application was considered acceptable. However, the applicant was still required to provide a set of record photographs showing the finalized drainage implementation works with corresponding photograph locations marked clearly on the approved drainage plan. He would inspect the completed drainage works jointly with the applicant with reference to the set of photographs. The applicant was required to ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas. No public stormwater drainage maintained by his Office was currently available for connection. The area was probably being served by some of the existing local village drains. The village drains were probably maintained by DO(YL). The applicant should approach DO(YL) if he wished to know more about these drains. If the proposed discharge point was to these drains, the applicant should seek an agreement from the relevant department on the proposal. No public sewerage maintained by his Office was currently available for connection. For sewage disposal and treatment, agreement from the Director of Environmental Protection should be obtained. The applicant was reminded that the proposed drainage proposal/works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction. The applicant should consult DLO/YL regarding all the proposed drainage works outside the lot boundary in order to ensure the unobstructed discharge from the application site in future. All the proposed drainage facilities should be constructed by the applicant at his own cost. The applicant was fully responsible for the proper maintenance of the drainage facilities on site; and

- (g) to note the Chief Engineer/Development (2), Water Supplies Department's comments that the applicant might need to make use of his/her private sump and pump system to effect adequate water supply to the development. The applicant should be responsible for the construction, operation and maintenance to his Department's standards of any private water supply system for water supply to the development. There was no water mains in the vicinity of the site and therefore the standard fire-fighting flow could

not be provided.

[The Chairperson thanked Mr. Anthony C.Y. Lee, STP/TMYL, for his attendance to answer Members' enquires. Mr. Lee left the meeting at this point.]

Agenda Item 29

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TM/390 Proposed Shop and Services (Convenience Store)
 in "Industrial" zone,
 Workshop No. 2A, G/F, Parklane Centre, 25 Kin Wing Street,
 Tuen Mun
 (RNTPC Paper No. A/TM/390)

Presentation and Question Sessions

124. Mr. C.C. Lau, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed shop and services (convenience store);
- (c) departmental comments – no objection to or no adverse comment from concerned Government departments was received;
- (d) no public comment was received during the statutory publication period. One local support was received by the District Officer (Tuen Mun) from the property manager of Kin Wing Commercial Building for reasons of convenience to the locals and benefits to the local economy; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper.

The applicant sought planning permission for a small-scale convenience shop of about 124m² in an existing industrial building at the junction of Kin Wing Street and Kin On Street. The application was in line with the Town Planning Board Guidelines No. 25D in that the applied use was small in scale and it would not adversely affect the traffic conditions in the local road network. Besides, no adverse impacts on the environment and infrastructure of the area were anticipated. Relevant Government departments had no adverse comments on the application. The applied convenience store was considered not incompatible with the use of the adjoining units on the ground floor of the same building mainly comprising retail shop, bakery, caretaker's office and parking and loading/unloading area. The total floor area under current application (124m²) and the previously approved application (No. A/TM/336) (54.3m²) for temporary shop and services in the adjoining units on the G/F of the same building amounted to 178.3m², which did not exceed the maximum permissible limit of 460m². Separate means of escape was available for the subject premises because it fronted directly onto Kin Wing Street and Kin On Street. Director of Fire Services had no in-principle objection to the application provided that fire service installations were provided. An approval condition was suggested in the planning approval in this regard. Any non-compliance with the approval condition would result in revocation of the planning permission. Although the applicant had applied for a permanent use, in order not to jeopardize the planning intention of industrial use for the subject premises, approval on a temporary basis of 3 years would be more appropriate. The recent approval of similar applications for shop and services uses within the same "I" zone were approved on a temporary basis of 3 years. Approval of the subject application on a temporary basis of 3 years was therefore consistent with the Committee's previous decisions.

125. Members had no question on the application.

Deliberation Session

126. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.11.2012, instead of being on a permanent basis as applied for, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission and implementation of fire service installations in the subject premises within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.5.2010; and
- (b) if the above planning condition was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

127. The Committee also agreed to advise the applicant the following :

- (a) a temporary approval of three years was given in order to allow the Committee to monitor the compliance of the approval condition and the supply and demand of industrial floor space in the area to ensure that the long term planning intention of industrial use for the subject premises would not be jeopardized;
- (b) to note District Lands Officer/Tuen Mun's comments that he should apply to his office for a waiver permitting shop and services uses to effect the planning proposal and the waiver, if approved, would be subject to such terms and conditions to be imposed;
- (c) to note the Director of Fire Services' comments that the requirements stipulated in the 'Code of Practice for Fire Resisting Construction' administered by Buildings Department should be complied with for matters in relation to fire resisting construction requirements for the subject premises; and
- (d) to note the Chief Building Surveyor/New Territories West, Buildings

Department's comments that the application area was separated from the adjoining units and the corridor with walls of fire resisting period not less than 2 hours and the door to the corridor was having a fire resisting period of not less than 1 hour and Barrier Free Access provisions should be complied with in accordance with Building (Planning) Regulations 72.

128. The Chairperson said that the application under Agenda Item 30 would be conducted under closed meeting as it was submitted under the pre-amended Town Planning Ordinance (the Pre-Amendment Ordinance).

Agenda Item 30

[Closed Meeting]

Agenda Item 31

Any Other Business

134. There being no other business, the meeting was closed at 5:10 p.m..