

TOWN PLANNING BOARD

Minutes of 421st Meeting of the Rural and New Town Planning Committee held at 2:30 p.m. on 16.7.2010

Present

Director of Planning
Mr. Jimmy C.F. Leung

Chairman

Mr. Walter K.L. Chan

Vice-chairman

Mr. B.W. Chan

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Dr. C.P. Lau

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Chief Traffic Engineer/New Territories West,
Transport Department
Mr. T.K. Choi

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

Dr. James C. W. Lau

Professor Edwin H.W. Chan

Ms. Anna S.Y. Kwong

Dr. W.K. Lo

Ms. Anita W.T. Ma

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
Ms. Christine K.C. Tse

Town Planner/Town Planning Board
Ms. Cindy K.F. Wong

Agenda Item 1

Confirmation of the Draft Minutes of the 420th RNTPC Meeting held on 25.6.2010

[Open Meeting]

1. The Secretary reported that proposed amendments to paragraph 52(e) of the draft minutes of the 420th meeting had been received from the representative of Transport Department and a copy was tabled for Members' consideration. The amended paragraph should read as "to note the Commissioner for Transport's comments that *the proposed EVA was not under Transport Department's jurisdiction. The land status of the proposed EVA leading to the site from a public road should be checked with the lands authority, and the management and maintenance responsibilities of the proposed EVA should be clarified with the relevant lands and maintenance authorities accordingly;*" Members had no comment on the proposed amendments and the minutes were confirmed subject to the said amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

(a) Approval of Draft Plans

2. The Secretary reported that on 6.7.2010, the Chief Executive in Council (CE in C) approved the following outline zoning plans (OZPs) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance) and approval of the plans would be notified in the Gazette on 17.9.2010:

- (a) Mid-levels East OZP (to be renumbered as S/H21/12);
- (b) Clear Water Bay Peninsula North OZP (to be renumbered as S/SK-CWBN/4) ;
- (c) Quarry Bay OZP (to be renumbered as S/H21/28); and
- (d) Kwun Tong (North) OZP (to be renumbered as S/K14N/13).

(b) Reference Back of OZPs

3. The Secretary also reported that on 6.7.2010, the CE in C referred the following OZPs to the Town Planning Board for amendment under section 12(1)(b)(ii) of the Ordinance and the reference back would be notified in the Gazette on 17.9.2010:

- (a) approved Cheung Sha Wan OZP No. S/K5/31;
- (b) approved Tai Tong OZP No. S/YL-TT/14;
- (c) approved Sha Tin OZP No. S/ST/23;
- (d) approved Ngau Tau Kok and Kowloon Bay OZP No. S/K13/25; and
- (e) approved Causeway Bay OZP No. S/H6/14.

(c) Abandonment of Town Planning Appeal

Town Planning Appeal No. 4 of 2009

Proposed House (New Territories Exempted House (NTEH) - Small House)

in "Agriculture" zone, Government Land in D.D. 9,

Tai Wo Village, Tai Po

(Application No. A/NE-KLH/374)

4. The Secretary said that the subject appeal was received by the Town Planning Appeal Board (TPAB) (the Appeal Board) on 31.3.2009 against the decision of the Town Planning Board on 16.1.2009 to reject on review an application for a proposed house (NTEH-Small House) in the "Agriculture" zone on the approved Kau Lung Hang OZP. On 11.7.2010, the appeal was abandoned by the appellant of his own accord. On 12.7.2010, the Appeal Board formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

(d) Appeal Statistics

5. The Secretary said that as at 16.7.2010, a total of 25 cases were yet to be heard by the Appeal Board. Details of the appeal statistics were as follows :

Allowed	:	25
Dismissed	:	111
Abandoned/Withdrawn/Invalid	:	138
Yet to be Heard	:	25
<u>Decision Outstanding</u>	:	<u>4</u>
Total	:	303

(e) Town Planning Appeal Decision Received

Town Planning Appeal No. 3 of 2008 (3/08)

Proposed Alfresco Dining Facilities (Amendments to an Approved Master Layout Plan)
Podium Roof Level, Union Square, Airport Railway Kowloon Station, 1 Austin Road
(Application No. A/K20/102)

6. The Secretary reported that the subject appeal was against the Town Planning Board (TPB)'s decision to reject an application for a review of the Committee's decision on imposing the approval conditions (a) and (c), i.e. the operation hours of the proposed alfresco dining facilities should be restricted to 7 a.m. to 11 p.m. daily [condition (a)] and non-compliance of such condition would result in revocation of the planning permission [condition (c)], and granting the planning approval on a temporary basis for a period of three years. The appeal was heard by the Town Planning Appeal Board (TPAB) on 11.5.2010, 12.5.2010, 8.6.2010 and 9.6.2010. According to the decision of the TPAB dated 28.6.2010, the appeal was allowed by the TPAB for the following main considerations :

- (a) the key planning condition was the operational hours condition. The three-year cap on the duration of planning permission and the immediate revocation condition were intended to monitor and control adverse noise impacts. It followed that if the operational hours condition was proved to be unsupportable, the other two conditions would fall with it;
- (b) it was the view of the TPAB that the TPB had the statutory power to impose an operational hours condition in granting a planning permission. However, in the subject case, the TPAB believed that such condition was unsustainable because of the existence of an alternative regulatory system,

i.e. the outside seating accommodation (OSA) licensing system administered by the Food and Environmental Hygiene Department (FEHD), which was more efficient, more effective and fairer as compared to the imposition of planning condition;

[Dr C. P. Lau arrived to join the meeting at this point.]

- (c) the TPAB considered the OSA scheme to be fairer in that having obtained the planning permission, the developer of the Union Square let restaurant operators use the appeal site for alfresco dining. If any of the operators were to breach the operational hours condition, the planning permission would cease to have effect and be revoked. Under such circumstances, not only the defaulting restaurant operator, but all restaurant operators would lose the right to use the premises for alfresco dining any more. On the other hand, if the planning permission was not subject to an operational hours condition, each individual restaurant operator would have operational hours condition imposed on him by the licensing authority. If any operator were to act in breach of such condition, the licensing authority would take enforcement action against such operator, leaving other compliant operators unaffected;
- (d) after careful consideration of the effectiveness and appropriateness of the licensing regime, the TPAB was of the view that if planning permission was granted unconditionally, there was no risk of unregulated noise impacts. Removal of the operational hours condition did not lead to an uncontrolled use of the appeal premises for alfresco dining. The licensing regime would step in and impose relevant conditions, including those relating to operational hours, and provide an efficient, effective and fair system of control, taking account of local objections; and
- (e) the TPAB, however, had made clear in the appeal decision that it was not the TPAB's view that the TPB should as a matter of course defer to other regulatory regimes. Each case had to be considered upon its own facts.

Sai Kung and Islands District

[Mr. Charles C.F. Yum, Senior Town Planner/Sai Kung and Islands (STP/SKIs), was invited to the meeting at this point.]

Agenda Item 3

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-PK/175 Proposed House (New Territories Exempted House)
 in “Residential (Group D)” zone,
 Lot 1634 sARP and 1635 in D.D. 221, Sha Kok Mei, Sai Kung
 (RNTPC Paper No. A/SK-PK/175)

Presentation and Question Sessions

7. Mr. Charles C.F. Yum, 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);
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the statutory publication period, two public comments were received raising objection to the application. One commenter raised objection to the application as the proposed NTEH would be built on a swampy area with many natural creatures. The commenter also considered that the existing footpath next to the site would be bounded by the walls of the two proposed houses leaving not much room for the footpath. Another commenter raised objection to the application as it contravened the planning intention of the “Residential (Group D)” (“R(D)”) zone which was for improvement

and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. Moreover, the application might adversely affect the Hiram's Highway Improvement Project; and

- (e) the Planning Department (PlanD)'s views –PlanD had no objection to the application based on the assessments given in paragraph 11 of the Paper. A major portion of the Site had house lot status under the lease conditions (i.e. a total built-over area of 101.7m² and 2-storey high). The Site was the subject of a previous application No. DPA/SK-SKM/9, which was approved with conditions by the Committee on 6.11.1992 for two 3-storey NTEHs with a total built-over area of 92.9m². District Lands Officer/Sai Kung had previously approved several land exchange proposals for private residential development. The proposed NTEH under the current application generally reflected the development right under the lease. The proposed NTEH development was in line with the planning intention of the “R(D)” zone and was generally compatible with the character of the surrounding areas which were predominantly 3-storey village-type houses. Developing a NTEH on the site would not cause adverse traffic, drainage, noise, environmental and landscape impacts on the surrounding areas. Regarding the public comments on encroachment onto the swampy area and existing footpath, the application site was mainly covered with grass and shrubs, not swampy area and the proposed house would not encroach onto the existing adjacent footpath and the width of the footpath would not be affected. With regard to another commenter's concern on the planning intention of the “R(D)” zone and the Hiram's Highway Improvement Project, the proposed NTEH was in line with the planning intention of the “R(D)” zone which was for low-rise, low-density residential developments and would not affect the future road improvement project.

8. Members had no question on the application.

Deliberation Session

9. 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 16.7.2014, 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 firefighting 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 landscaping proposal to the satisfaction of the Director of Planning or of the TPB.

10. The Committee also agreed to advise the applicant of the following :

- (a) to note the following comments of the District Lands Officer/Sai Kung:
 - (i) the applicant would be required to apply to his office for a land exchange upon obtaining planning permission from the Board. However, there was no guarantee that the proposed land exchange would be approved by the Government. The land exchange, if eventually approved, should be subject to such terms and conditions including payment of fees and premium, as the Government considered appropriate;
 - (ii) during the application for the proposed land exchange, the applicant would be required to prove his title to the lots. Title checking would be reviewed in further detail by his office during the processing of the land exchange;
 - (iii) according to his office's records, the registered site areas of Lots 1634SARP and 1635 were 0.005 acre and 0.03 acre respectively. The total site area should therefore be 0.035 acre (about 141.64m²) which was different from the application site area of 163.8m². The

boundary and area of regrant lot would only be finalised nearer to the completion of the land exchange; and

- (iv) detailed vetting on the design, disposition, height etc. of the proposed development would be conducted at building plan submission stage;
- (b) to note the Chief Highway Engineer/New Territories East, Highways Department's comment that the proposed New Territories Exempted House should be designed, orientated and built with consideration of the proposed 'Hiram's Highway Improvement Stage 2' works;
- (c) to note the Director of Agriculture, Fisheries and Conservation's comment that the applicant should implement good site practice to avoid affecting the trees within the boundary of the application site;
- (d) to note the Chief Engineer/Development (2), Water Supplies Department (WSD)'s comments that for provision of water supply to the Site, 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 connection, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (e) to note the Chief Engineer/Mainland South, Drainage Services Department's comment that no structure should be erected within 3m distance from the edge of the twin-cell box culvert located beside the application site.

[The Chairman thanked Mr. Charles C.F. Yum, STP/SKIs, for his attendance to answer Members' enquires. Mr. Yum left the meeting at this point.]

Sha Tin, Tai Po and North District

[Ms. Doris S.Y. Ting, Mr. W.W. Chan and Ms. Lisa L.S. Cheng, Senior Town Planners/Sha Tin, Tai Po and North (STPs/STN), were invited to the meeting at this point.]

Agenda Item 4

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTN/141 Temporary Shop and Services (Retail Shop) for a Period of 3 Years
in “Government, Institution or Community” zone,
Lot 1080 RP (Part) in D.D. 95, Ho Sheung Heung, Sheung Shui
(RNTPC Paper No. A/NE-KTN/141)

Presentation and Question Sessions

11. 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 temporary shop and services (retail shop) for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) advised that two environmental complaints on noise nuisance in respect of the application site were received in 2009;
- (d) the District Officer/North, Home Affairs Department (DO/N, HAD) had consulted the locals regarding the application and the Chairman of Sheung Shui District Rural Committee and two Village Representatives of Ho Sheung Heung supported the application mainly for the reasons of increasing job opportunities, enhancing prosperity, increasing pedestrian flow and providing convenient goods for local villagers. During the statutory publication period, two comments, one from a member of the

public indicating ‘no comment’ and Designing Hong Kong Limited supporting the application were received. Designing Hong Kong Limited opined that the Ho Kai School was a historical building and the Board should include stringent conditions for the approval, including a heritage assessment and a conservation management plan to avoid damaging the structures; and

- (e) the Planning Department (PlanD)’s views –PlanD considered that the temporary use could be tolerated for a period of three years based on the assessments given in paragraph 12 of the paper. The application site was within an abandoned school site with no designated Government, institution or community (GIC) use for the time being. The approval of the application on a temporary basis for a period of 3 years would not frustrate the long term planning intention of the “Government, Institution or Community” zone on the OZP. The retail shop under application generally complied with the TPB Guidelines for ‘Application for Development/Redevelopment within “G/IC” Zone for Uses Other Than GIC Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No.16) in that the retail shop would not affect the existing/planned GIC facilities of the application site and the use and scale of the retail shop were not incompatible with the surrounding uses, which were predominantly rural in nature. In view of the small scale and the nature of operation, the retail shop would unlikely cause significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. As for the two environmental complaints on noise nuisance regarding the application site which was received in 2009, relevant approval conditions restricting the operation hours were recommended so as to minimize possible environmental nuisance. Regarding the public comments on the historical building, the Director of Leisure and Cultural Services advised that the two structures of Ho Kai School were not declared monuments, graded historic buildings, or items included in the assessment of 1,444 historic buildings released by the Antiquities Advisory Board on 19 March 2009. In this regard, no relevant approval condition on heritage assessment or conservation management plan was required.

12. Members had no question on the application.

Deliberation Session

13. Mr. T.K. Choi advised to amend the advisory clause (f) to reflect fully Commissioner for Transport's comments as stated in paragraph 10.1.3(b) of the Paper. The Committee agreed.

14. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 16.7.2013, 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 application site during the planning approval period;
- (b) the submission 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 16.1.2011;
- (c) in relation to (b) above, the implementation of drainage proposals within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 16.4.2011;
- (d) the submission of proposals for water supplies for fire-fighting and 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 16.1.2011;
- (e) in relation to (d) above, the provision of water supplies for fire-fighting and 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 16.4.2011;

- (f) the submission of landscaping proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.1.2011;
- (g) in relation to (f) above, the implementation of landscaping proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.4.2011;
- (h) if the above planning condition (a) 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
- (i) if any of the above planning conditions (b), (c), (d), (e), (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.

15. The Committee also agreed to advise the applicant of the following :

- (a) prior planning permission should have been obtained before commencing the development on site;
- (b) the permission was given to the use / development under application. It did not condone any other use / development which currently existed on the site but not covered by the application. The applicant should be requested to take immediate action to discontinue such use / development not covered by the permission;
- (c) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (d) to note the Director of Fire Services' comments that:
 - (i) the applicant should make reference to paragraph 1.14 of the "Code

of Practice for Minimum Fire Service Installations and Equipment”;
and

- (ii) detailed fire safety requirements would be formulated upon receipt of formal submissions of general building plans;
- (e) to note the Chief Engineer/Mainland North, Drainage Services Department’s comments that the site was in an area where no public sewerage connection was available. The Environmental Protection Department should be consulted regarding the sewage treatment disposal facilities for the development under application;
- (f) to note the Commissioner for Transport’s comments that the village track to the site was not managed by Transport Department. The land status of the village track leading from Ho Sheung Heung Road to the site should be checked with the lands authority. The management and maintenance responsibilities of the track leading to the application site should be clarified with the relevant lands and maintenance authorities;
- (g) to note the Chief Engineer/Development(2), Water Supplies Department’s (WSD) comments that:
- (i) for provision of water supply to the application site, 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) the site was located within WSD flood pumping gathering ground;
and
 - (iii) water mains in the vicinity of the site could not provide the standard

fire-fighting flow;

- (h) to note the Secretary for Education's comments that the subject approval was not a waiver of or in any way prejudice the Government's rights and interests pursuant to the Deed of Trust dated 4 August 1961 registered with the Lands Registry with Memorial No. N 144841. Furthermore, to manage public perception, the applicant should be obliged to remove signage related to Ho Kai School from the said premises; and
- (i) 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.

Agenda Item 5

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/424 Proposed 11 Houses (New Territories Exempted Houses)
in "Agriculture" and "Village Type Development" zones,
Lot 1749 in D.D. 76, Leng Pei Tsuen, Fanling
(RNTPC Paper No. A/NE-LYT/424)

Presentation and Question Sessions

16. 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 with application site fell mainly within an area zoned "Agriculture" ("AGR") (about 92.8%) and partly within an area zoned "Village Type Development" ("V") (about 7.2%);
- (b) the proposed 11 houses (New Territories Exempted Houses);

- (c) departmental comments – the District Lands Officer/North, Lands Department (DLO/N, LandsD) did not support the application. The proposed 11 house sites were within the village ‘environs’ (‘VE’) of Leng Pei Tsuen. Under the Small House Policy, the land in ‘VE’ or “V” zone for recognized villages should be primarily reserved for Small House development by indigenous villagers. Therefore, if the application did not fall within the category of Small House application, he would not support the application. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application. The application site fell mostly within “AGR” zone and was currently occupied and surrounded by vegetable field and residential structures. Agricultural life in the application site and its vicinity were active and the application site could be rehabilitated for agricultural purposes;

- (d) The District Officer/North, Home Affairs Department (DO/N, HAD) has consulted the locals. The Chairman of Fanling District Rural Committee (FDRC) had no comment on the application while the Indigenous Inhabitants Representative (IIR) and Residents Representative (RR) of Leng Pei Tsuen supported the application as the environment would be improved; and the proposed development could meet the local housing demand and land could be better utilized. During the statutory publication period, one public comment objecting to the application was received from Designing Hong Kong Limited on the grounds that (i) the zoning intention and character of the area was incompatible with urban sprawl; (ii) the layout of existing and proposed infrastructure and development was haphazard and it was incompatible with the current and proposed land uses; (iii) there was a lack of plan for a sustainable layout of infrastructure and development to ensure the health and well being of current and future residents and a quality urban design; and (iv) failure to provide a sustainable layout before approval might deteriorate the living environment in the village, impact the well being of residents and create health and social problems and future costs to the society; 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. Majority of the application site fell within the “AGR” zone and was not in line with the planning intention of the “AGR” zone. There was no strong planning justification in the submission for a departure from the planning intention. The application sites of the proposed 11 houses fell within the village ‘environs’ (‘VE’) and land within ‘VE’ or “V” zone for recognized New Territories villages should be primarily reserved for Small House development by indigenous villagers. There was no similar application for NTEH development within the same “AGR” zone of the OZP. The approval of the application would set an undesirable precedent for similar applications in future, the cumulative impact of which would result in further loss of agricultural land in the area.

17. Members had no question on the application.

Deliberation Session

18. Members then went through the reasons for not supporting the application as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After 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 “Agriculture” (“AGR”) zone in the Lung Yeuk Tau and Kwan Tei South area which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention;
- (b) the application site fell within the village ‘environs’ (‘VE’) of Ma Mei Ha, Ma Mei Ha Leng Tsui and Leng Pei Tsuen and land within ‘VE’ or “Village Type Development” zone for recognized New Territories villages should be primarily reserved for Small House development by indigenous villagers; and

- (c) the approval of the application would set an undesirable precedent for similar applications within “AGR” zone in future. The cumulative impact of approving such application would result in further loss of agricultural land in the area.

Agenda Item 6

Section 16 Application

[Open Meeting]

A/NE-TKL/331

Proposed Columbarium

in “Government, Institution or Community (1)” zone,

Lots 11 S.A (Part) and 11 S.B in D.D. 77, Ping Che, Fanling

(RNTPC Paper No. A/NE-TKL/331A)

19. The Secretary reported that the applicant requested on 30.6.2010 for a deferment of the consideration of the application for two months in order to provide further detailed traffic assessment for addressing comments of Transport Department. Planning Department had no objection to the request for deferment as the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No.33) in that the applicant needed more time to further consult relevant Government department to resolve technical issues and to provide important supplementary information, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

20. 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.

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TKL/337 Temporary Telephone Exchange for a Period of 5 Years
in “Agriculture” and “Road” zones,
Government Land in D.D. 82, Ping Che Road, Ta Kwu Ling
(RNTPC Paper No. A/NE-TKL/337)

Presentation and Question Sessions

21. 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 with the application site fell mainly within an area zoned “Agriculture” (“AGR”) (about 84%) with a minor portion (about 16%) fell within an area shown as ‘Road’;
- (b) the temporary telephone exchange for a period of 5 years;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the statutory publication period, one public comment supporting the application was received from a member of the general public without giving any reason; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use could be tolerated for a period of three years based on the assessments given in paragraph 10 of the paper. The current application was the same as the previous applications in terms of the applied use, site area and boundary, total GFA and building height and there had been no material change in the planning circumstances for the application site and surrounding areas and the approval of the subject application was in line

with the Committee's previous decision. The use under application was small in scale and was considered not incompatible with the surrounding environment and unlikely to cause adverse environmental, landscape, drainage and traffic impacts on the surrounding areas. The application site fell within the future Ping Che/Ta Kwu Ling New Development Area (NDA). The site formation works for the NDAs development were tentatively scheduled to commence in 2014/15 subject to review under the North East New Territories (NENT) NDAs Planning and Engineering Study. In this regard, a shorter approval period of 3 years until 16.7.2013 was suggested to be granted in order not to jeopardize the implementation of the NDA.

22. Members had no question on the application.

Deliberation Session

23. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 16.7.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the existing vegetation on the application site should be maintained at all times during the planning approval period;
- (b) the submission 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 16.1.2011;
- (c) in relation to (b) above, the implementation of drainage proposals within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 16.4.2011;
- (d) the submission of proposals on 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 16.1.2011;

- (e) in relation to (d) 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 16.4.2011;
- (f) if the above planning condition (a) 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
- (g) if any of the above planning conditions (b), (c), (d) or (e) 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.

24. The Committee also agreed to advise the applicant of the following :

- (a) planning permission should have been renewed before continuing the applied use at the application site;
- (b) a shorter approval period of three years was granted in order not to affect the site formation works for the development of the New Development Areas (NDAs) which were tentatively scheduled to commence in 2014/15 subject to review under the North East New Territories NDAs Planning and Engineering Study;
- (c) to note the comments of the District Lands Officer/North, Lands Department to submit documentary proof to certify the safety of the steel pole (with cat ladder) and apply to his office for regularization of the structures erected; and
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department as follows:
 - (i) 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 said Ordinance or other enactment might be taken if contravention was found;

- (ii) if the containers were used as offices, they were considered as temporary building and subject to control under Building (Planning) Regulations (B(P)R) Part VII; and
- (iii) formal submission of any proposed new works, including any temporary structure for approval under the BO was required. If the site did not abut a specified street of not less than 4.5m wide, the development intensity should be determined under B(P)R 19(3) at building plan submission stage. Also, the applicant's attention was drawn to B(P)R 41D regarding the provision of emergency vehicular access to the proposed development.

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

Agenda Item 8

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/MOS/81 Proposed House (New Territories Exempted House - Small House)
(Private Garden Ancillary to House)
in "Green Belt" zone,
A Piece of Government Land to the South of House No. 86,
Cheung Muk Tau Village, Sai Kung North, Ma On Shan
(RNTPC Paper No. A/MOS/81)

Presentation and Question Sessions

25. Mr. W.W. Chan, STP/STN, informed the meeting that a replacement page of P.5 to amend 'District Officer/Shau Tin' to "District Officer/Tai Po" in para. 9.1.9 of the Paper was tabled at the meeting for Members' reference. He then 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 - Small House) (private garden ancillary to house);
- (c) departmental comments – the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application because the use of Government land in the “Green Belt” (“GB”) zone as private garden would set a precedent for further intrusion of development into the “Green Belt” (“GB”) and imposed adverse impacts to the existing woodland; and the construction of the private garden might disturb the existing woodland in the “GB” zone;
- (d) during the statutory publication period, one public comment from Designing Hong Kong Limited was received. The commenter objected to the application on the grounds that the application was not in line with the planning intention of the “GB” zone and the character of the area; there was a lack of a layout for infrastructure and development which ensured the health and well being of current and future residents and a quality urban design; The lack of layout before approval of further development would further deteriorate the living environment in the area. Failure to ensure appropriate access and parking spaces led to illegal occupation of Government land, illegal and unsafe parking; 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. There was a general presumption against development in “GB” zone. The conversion of the subject site into a private garden was not in line with the planning intention of “GB” zone. No strong planning justifications had been provided in the submission for a departure from this planning intention. The proposed development did not comply with the ‘Application for Development within “Green Belt” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) that the proposed development

would cause adverse landscape impact on the surrounding area. As there were other NTEHs nearby having similar circumstances, approval of the application would set an undesirable precedent for attracting more similar applications. The cumulative effect of approving such proposals would result in a general degradation of the environment in the area.

26. The Chairman asked what action would be taken if the application was not approved as the area concerned had been built upon. Mr. W.W. Chan explained that the application site was Government land and the applicant was required to apply to Lands Department (LandsD) for a Short Term Tenancy (STT) for private garden use. If the subject application was not approved, the LandsD might take enforcement action against the illegal occupation of Government land. A Member noted that the District Lands Officer/Tai Po (DLO/TP) had no objection to the application. Mr. W.W. Chan responded that DLO/TP would consider the STT application when planning approval was obtained by the applicant. Mr. Simon Yu said that DLO/TP had no objection to the application for private garden use and would consider the STT for the private garden if the application was approved by the Committee.

Deliberation Session

27. A Member opined that approval of this application would set an undesirable precedent for other similar planning applications in “GB” zone. LandsD should take enforcement action against the illegal occupation of Government land if the subject application was not approved.

28. Members then went through the reasons for not supporting the application as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After 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 “Green Belt” (“GB”) zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development in “GB” zone and no strong

planning justifications had been provided in the submission for a departure from this planning intention;

- (b) the proposed development did not comply with the Town Planning Board Guidelines No.10 that the proposed development would cause adverse landscape impact on the surrounding area; and
- (c) approval of the subject application would set an undesirable precedent for other similar development proposals in the “GB” zone. The cumulative effect of approving such proposals would result in a general degradation of the environment in the area.

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/706 Temporary Shop and Services (Retail Shop)
for a Period of 3 Years and 11 Months
in “Government, Institution or Community” zone,
Caltex Petrol Filling Station, 1 Man Lai Road, Sha Tin
(RNTPC Paper No. A/ST/706)

Presentation and Question Sessions

29. Mr. W.W. Chan, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary shop and services (retail shop) for a period of 3 years and 11 months;
- (c) departmental comments – no objection from concerned Government departments was received;

- (d) no public comment was received during the statutory publication period. District Officer/Shu Tin, Home Affairs Department (DO/ST, HAD) relayed the previous comments made in 2001 by Mr. Kong Wood Chiu (an ex-DC member) that the petrol filling station at Man Lam Road might endanger the safety of visitors at Hong Kong Heritage Museum. According to his office record, no complaint against the petrol filling station had been received since its operation; and

- (e) the Planning Department (PlanD)'s views –PlanD considered that the temporary use could be tolerated for a period of 3 years and 11 months based on the assessments given in paragraph 10 of the paper. The retail shop under application was provided within the petrol filling station, which was approved with conditions (No. A/ST/187) by the Board in 1991. The retail shop could be regarded as an ancillary facility to the petrol filling station. The lease of the petrol filling station would expire on 18.3.2014. Hence, the current application for retail shop use for 3 years and 11 months was to cover the remaining term of the lease. The retail shop use was small in scale and would not generate adverse traffic and environmental impacts on the surrounding area. All relevant Government departments consulted had no adverse comments or objection to the application. Regarding the comment relayed by the District Officer, Director of Environmental Protection advised that no substantiated complaints for this location were received in the past 5 years and Director of Fire Services also had no objection to the application.

30. Members had no question on the application.

Deliberation Session

31. The Chairman asked why planning application was required for the retail shop which might be regarded as an ancillary use to the petrol filling station. Mr. W.W. Chan explained that it was because the retail shop was not included in the previously approved planning application for the petrol filling station (No. A/ST/187).

32. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years and 11 months until 16.6.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the condition that 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 16.1.2011.

33. The Committee also agreed to advise the applicant of the following :

- (a) to note the comments from the District Lands Officer/Shu Tin, Lands Department that the owner would be required to apply to his office for a lease modification to effect the proposed temporary retail shop use; and
- (b) to note the comments from Chief Building Surveyor/New Territories 2 & Rail, Buildings Department that the proposed alteration should comply with the requirements under the Code of Practice for Fire Resisting Construction 1996 and the Design Manual: Barrier Free Access 2008.

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/707 Comprehensive Residential Development with Retail Shop and Kindergarten Uses - Proposed Amendments (with Minor Relaxation of Maximum Gross Floor Area) to the Approved Master Layout Plan under Planning Application No. A/ST/554-3
in “Comprehensive Development Area (1)” zone,
Ma On Shan Line Che Kung Temple Station Site, Sha Tin
(RNTPC Paper No. A/ST/707)

34. The subject application was submitted by the Mass Transit Railway Corporation (MTRC) Limited. The Committee noted that the Secretary for Transport and Housing was the non-executive Director of the MTRC Limited. Mr. T.K. Choi, who was the

representative from Transport Department, had declared an interest in this item. Mr. Choi was invited to leave the meeting temporarily during the discussion and determination on this item.

[Mr. T. K. Choi left the meeting temporarily at this point.]

Presentation and Question Sessions

35. Mr. W.W. Chan, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the comprehensive residential development with retail shop and kindergarten uses - proposed amendments (with minor relaxation of maximum gross floor area) to the Approved Master Layout Plan under Planning Application No. A/ST/554-3;

[Dr. C.P. Lau returned to join the meeting at this point.]

- (c) departmental comments – the Chief Estate Surveyor/Railway Development, Lands Department (CES/RD, Lands D) advised that the proposed relaxation of GFA to 91,954m² under application would exceed that permitted under the New Grant No. 20605 executed on 22.7.2008 by 1,299m². A lease modification might be required for the additional GFA exceeding 90,655m². He would reserve his comment on the accountability of the additional GFA under lease at detailed building plan submission stage. The Director of Environmental Protection (DEP) advised that based on the information provided in the Environmental Noise Impact Assessment (ENIA), with the best practicable environmental measure, there were still 178 number of flats (18% of total flats) exposed to traffic noise exceeding the Hong Kong Planning Standards and Guidelines (HKPSG) Standard of 70dB(A) L10(1 hr), and the highest being 75dB(A). The applicant was responsible to achieve the environmental planning

principles contained in the HKPSG. On the condition that all best practicable noise mitigation measures would be incorporated and that the noise performance at all flats and the details of the noise mitigation measures adopted be disclosed to the public, he would not object to the proposal;

- (d) during the statutory publication period, one public comment was received. The comment was made by Designing Hong Kong Limited objecting to the application on the grounds that the approved Master Layout Plan (MLP) already included the total gross floor area (GFA) for the site, including area for both domestic and non-domestic uses and the areas in the application should have already been counted in the MLP; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments given in paragraph 10 of the Paper. This application was mainly to seek the Committee's permission for amendment to the previously approved scheme No. A/ST/554-3 for minor relaxation of maximum GFA from 90,655 m² to 91,954 m² (i.e. an increase in GFA of 1,299 m² (about 1.43%)). The increase in GFA was due to the inclusion of the covered landscape and circulation area on ground floor into GFA calculation under the Buildings Ordinance. These covered areas had been indicated and were assumed to be exempted from GFA calculation in the approved MLP. As the proposed increase in GFA was to account for landscape and circulation purposes, it would not in effect increase the intensity of the development and thus would not have adverse impacts on the environment, or traffic conditions of the surrounding areas, or on the adjacent infrastructures. There was no conflict with the original planning intention of the "Comprehensive Development Area" zone in approving the application as it would not increase the GFA for flats, kindergarten and retail shop as approved. Regarding the public comment, it should be noted that the covered areas had been indicated in the approved MLP and were exempted from GFA calculation.

36. Members had no question on the application.

Deliberation Session

37. 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 16.7.2014, 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) to take into account the approval conditions as stated in paragraphs (b), (c) and (e) below to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission of a revised Landscape Master Plan and implementation of the approved Landscape Master Plan to the satisfaction of the Director of Planning or of the TPB;
- (c) the design and provision of vehicular access, pedestrian circulation system, bicycle parking, car parking, loading/unloading and lay-by facilities to the satisfaction of the Commissioner for Transport or of the TPB;
- (d) the provision of pedestrian and cycle track connections from the application site to the nearby river-side promenade to the satisfaction of the Commissioner for Transport or of the TPB; and
- (e) the submission and implementation of a revised development programme indicating the timing and phasing of the development to the satisfaction of the Director of Planning or of the TPB.

38. The Committee also agreed to advise the applicant of 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 deposition in the Land Registry as soon as possible;

- (b) to consult the Director of Buildings on the compliance of the proposed development with the Buildings Ordinance;
- (c) to consult the Director of Drainage Services on the appropriateness of the drainage culvert alignment and the required clearance from its sides;
- (d) to consult the Secretary for Education on the location and access for the proposed kindergarten;
- (e) to provide noise mitigation measures to ventilation system within Che Kung Temple Station identified in the Environmental Noise Impact Assessment prior to population intake of the development and to pay attention to construction site discharge by following ProPECC Note PN 1/94;
- (f) in consultation with the Sha Tin District Office, to meet with the Sha Tin District Council to explain the MLP; and
- (g) to note the comments of the Director of Environmental Protection that the noise performance at all flats and the details of the noise mitigation measures adopted be disclosed to the public, and that all best practicable noise mitigation measures would be incorporated by the developer.

[Mr. T. K. Choi returned to join the meeting at this point.]

Agenda Item 11

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-SSH/72 Proposed House (New Territories Exempted House - Small House)
 in “Green Belt” zone,
 Government land in D.D. 209, Sai Keng Village, Shap Sz Heung,
 Sai Kung North
 (RNTPC Paper No. A/NE-SSH/72)

Presentation and Question Sessions

39. Ms. Lisa L.S. Cheng, 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 - Small House);
- (c) departmental comments – the Commissioner for Transport (C for T) advised that the proposed development located outside “Village Type Development” (“V”) zone, if permitted, would set an undesirable precedent case for similar applications in the future and the resulting cumulative adverse traffic impact could be substantial. However, as only one small house was involved, he considered that the subject application could be tolerated unless it was rejected on other grounds;
- (d) during the statutory publication period, one public comment from Designing Hong Kong Limited was received. The commenter objected to the application as the site fell within the “GB” zone and there was a lack of sustainable village layout plan for the area; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments given in paragraph 12 of the Paper. The proposed Small House development was in line with the interim

criteria for consideration of application for NTEH/Small House in the New Territories in that the proposed Small House footprint fell entirely within the village 'environs' ('VE') of Sai Keng Village and there was a general shortage of land in meeting the demand for Small House development in the "V" zone of Sai Keng. The development was generally compatible with the surrounding environment which was predominantly rural in character occupied by village houses. Also, in view of its small scale, the proposed development was unlikely to have any significant adverse environmental and drainage impacts. Although C for T had concerns on the potential cumulative adverse traffic impact, he considered that the subject application involving only one Small House could be tolerated. Other concerned Government departments had no adverse comment / no objection to the application.

40. Members had no question on the application.

Deliberation Session

41. 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 16.7.2014, 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 drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB.

42. The Committee also agreed to advise the applicant of the following :

- (a) the applicant should note that no trees growing around the site should be

interfered with or removed;

- (b) the applicant should provide adequate protective measures for preserving the existing trees in the vicinity during construction stage;
- (c) the applicant should plant trees on the periphery of the site if land was available in order to minimize the possible landscape impact arising from the proposed development;
- (d) the applicant should note that public sewerage system at Sai Keng was planned to be implemented under the project "Tolo Harbour Sewerage of Unsewered Areas, Stage II". The project was at its design stage and was tentatively scheduled to start in phases commencing in 2011 for staged completion in 2018. Upon completion of the public sewerage system at Sai Keng, Environmental Protection Department (EPD) might require the applicant to make proper sewer connection from his premises into the public sewer at his own cost;
- (e) there were no existing Drainage Services Department maintained public stormwater drains available for connection in the area. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the site as well as overland flow from the surrounding areas. The applicant was required to maintain such systems properly and rectify the systems if they were found to be inadequate or ineffective during operation. The applicant should also be liable for and should indemnify claims and demands arising out of damage or nuisance caused by a failure of the systems;
- (f) the applicant should note that public sewerage connection was currently not available for the site. EPD should be consulted regarding the sewerage treatment/disposal aspects of the proposed development and the provision of septic tank; and
- (g) detailed fire safety requirements would be formulated upon receipt of

formal application referred by Lands Department.

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TK/312 Proposed Rural Committee/Village Office
 in “Green Belt” zone,
 Government Land in D.D. 15, Shan Liu Village, Tai Po
 (RNTPC Paper No. A/NE-TK/312)

Presentation and Question Sessions

43. Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) proposed rural committee/village office;
- (c) departmental comments – the District Lands Officer/Tai Po, Lands Department (DLO/TP, Lands D) did not support the application as the site was located on Government land. Application for rural committee/village office by an individual body was not in line with the current land policy. Only application from Village Representative (VR) (including Indigenous Inhabitant Representative and Resident Representative) or Rural Committee (RC) Chairman with policy support from Home Affairs Department (HAD) would be considered. Commissioner for Transport (C for T) had reservation on the application as he considered that the proposed development should be confined within the “V” zone as far as possible. Although traffic associated with the proposed development was not expected to be significant, such development if permitted would set an undesirable precedent for similar application in the future. However, the subject application only involved construction of a building similar to a

Small House, he considered that this application could be tolerated unless it was rejected on other grounds. The Director of Environmental Protection (DEP) did not support the application in view of the potential water quality impact on the water gathering ground (WGG). The site was within the lower WGG. The use of septic tank was not acceptable, as it was not technically feasible to safeguard water quality in WGG to meet the stringent effluent discharge standards in the Technical Memorandum under the Water Pollution Control Ordinance. The Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) objected to the application. As the proposed development was considered as “community and institutional” type of use, which was not permitted in lower WGG and water mains in the vicinity of the site could not provide the standard fire-fighting flow. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application. The proposed development was considered incompatible with the existing upland countryside landscape. The site was vegetated and the edge of the existing woodland was in close proximity to the south of the site. If the application was approved, it would set an undesirable precedent to other development in the area resulting in loss of valuable landscape resources and degradation of landscape quality. The District Officer/Tai Po, Home Affairs Department (DO/TP, HAD) advised that 「梁福慶堂」 was a Tong of the New Territories and HAD would usually not grant any policy support to a land allocation application submitted by a Tong for building a village office;

- (d) during the statutory publication period, three public comments were received. One of the comments, submitted by the VR of Shan Liu Village, supported the application. The other two comments, submitted by WWF Hong Kong and Kadoorie Farm & Botanic Garden Corporation, objected to the application for reason that the site was a well-vegetated area within “Green Belt” (“GB”) zone; the proposed development would cause substantial tree felling and vegetation clearance; and the proposed development would degrade the function and value of the “GB” zone and its encroachment on the “GB” would set an undesirable precedent to future

applications within the “GB” zone; 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. The proposed development was not in line with the planning intention of the “GB” zone. There was a general presumption against development within this zone. Being located in a well-vegetated area at the edge of existing woodland to the immediate south of the site, the proposed development did not comply with the ‘Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance’ (TPB-PG No. 10) for development within “GB” zone as the proposed development would cause adverse landscape impacts on the surrounding environment. The proposed development was considered incompatible with the existing upland countryside landscape. The approval of the application would set an undesirable precedent to other developments in the area resulting in loss of valuable landscape resources and degradation of landscape quality. Public comments were also received raising concerns on the adverse impact caused by the proposed development on surrounding trees and vegetation. The site was within the lower WGG and public sewerage connection was not available. Both DEP and DWS did not support the application in view of the potential water quality impact on the water gathering ground (WGG). The DEP pointed out that the use of septic tank proposed by the applicant was not acceptable as it was not technically feasible to safeguard water quality in WGG to meet the stringent effluent discharge standards under the Water Pollution Control Ordinance.

44. Members had no question on the application.

Deliberation Session

45. Members then went through the reasons for not supporting the application as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After 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 “Green Belt” (“GB”) zoning for the area which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
- (b) the application did not comply with the Town Planning Board Guidelines for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the proposed development would cause adverse landscape impacts on the surrounding environment and its approval would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area; and
- (c) the applicant failed to demonstrate that the proposed development located within the water gathering ground would not cause adverse impact on the water quality in the area.

Agenda Item 13

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TK/313 Proposed House (New Territories Exempted House - Small House)
in “Agriculture” zone,
Government Land in D.D. 15, Shan Liu Village, Tai Po
(RNTPC Paper No. A/NE-TK/313)

Presentation and Question Sessions

46. Ms. Lisa L.S. Cheng, 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 - Small House);
- (c) departmental comments – the District Lands Officer/Tai Po, LandsD (DLO/TP, LandsD) did not support the application as application for Small House grant on Government land from villagers living overseas should be refused. Should the application be approved by the Town Planning Board, the applicant should provide proof to the satisfaction of DLO that he intended to return and reside in the village. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site had high potential for agricultural rehabilitation. The Director of Water Supplies (DWS) objected to the application for reason of the potential water quality impact on the WGG. The DWS advised that, as the site was located in a relatively low-lying sloping terrain, around 4m below the trunk sewer to be constructed, the proposed Small House could not be connected to the planned sewerage system in the area. Although the applicant proposed to raise the building platform to enable sewer connection, the applicant had not provided sufficient information to show the extent and feasibility of raising the building platform. The feasibility of connecting the proposed Small House to the trunk sewer remained doubtful. The Commissioner for Transport (C for T) advised that in general, he had reservation on the application. The proposed NTEH development should be confined within the “Village Type Development” (“V”) zone as far as possible. Notwithstanding, the subject application only involved construction of a Small House, he considered that this application could be tolerated unless it was rejected on other grounds. The Chief Town Planner, Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application as the proposed development would have adverse impact on the existing rural landscape and result in in-cohesive and piecemeal development. The site was located on the edge of the existing woodland and it was likely that there would be potential adverse impact on the wooded hillside to the south. The proposed development, if approved, would set an undesirable

precedent and encourage more village house developments in the area resulting in an extension of the village landscape character well beyond the existing “V” zone boundary;

- (d) during the statutory publication period, three public comments were received. One of the comments, submitted by the Designing Hong Kong Limited, objected to the application for reason that the area zoned “AGR” lack a plan for a sustainable village layout for the area. The other two comments, submitted by WWF Hong Kong and Kadoorie Farm & Botanic Garden Corporation, objected to the application for reasons that the application did not comply with the Interim Criteria; the proposed Small House, located within the WGG, might not be able to be connected to the planned sewerage system in the area; the applicant failed to provide information to address the adverse impacts on water quality in the area; and the approval of the application would set an undesirable precedent. They also raised concerns on the “destruction first” approach adopted by the applicant to facilitate the approval process; 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. The site was located within the upper indirect WGG and also in a relatively low-lying sloping terrain at about 4m below the proposed trunk sewer. The applicant proposed to raise the building platform of the proposed Small House to enable sewerage connection to the trunk sewer. However, the DWS pointed out that as the applicant had not provided sufficient information to show the extent and feasibility of raising the building platform, the feasibility of connecting the proposed Small House to the trunk sewer remained doubtful. There was also concern on the landscape effect of raising the building platform by 4m as the total height of the proposed Small House sited together with the raised platform would be increased by 50%. This single elevated house would cause adverse impact on the rural landscape of the area. The proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in the New Territories as the feasibility

in connecting the proposed Small House to the planned sewerage system in the area was doubtful. The applicant failed to demonstrate that the proposed development could be connected to the planned sewerage system or that the proposed development would not cause adverse impact on the water quality in the area. The applicant also failed to demonstrate that the proposed development would not cause adverse impact on the rural landscape of the area. This application was similar to an application No. A/NE-TK/301 rejected by the Committee on 9.4.2010 for similar reasons. As there was no change in planning circumstances, there was no reason to warrant a departure from the Committee's previous decision in not approving the similar application.

47. Members had no question on the application.

Deliberation Session

48. Members then went through the reasons for not supporting the application as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After 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 feasibility in connecting the proposed Small House, being located within the Water Gathering Ground, to the planned sewerage system in the area was doubtful. The applicant failed to demonstrate that the proposed development would not cause adverse impact on the water quality in the area; and
- (b) the applicant failed to demonstrate that the proposed development would not cause adverse impact on the rural landscape of the area.

[The Chairman thanked Ms. Doris S.Y. Ting, Mr. W.W. Chan and Ms. Lisa L.S. Cheng, STPs/STN, for their attendance to answer Members' enquires. Ms. Ting, Mr. Chan and Ms. Cheng left the meeting at this point.]

Tuen Mun and Yuen Long District

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

Agenda Item 14

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-SKW/66 Temporary Self-service Barbecue Area for a Period of 3 Years
in “Village Type Development” zone,
Lots 246 S.B (Part), 250 (Part), 251 (Part), 258 (Part), 260,
261 (Part), 262 S.B (Part) and 263 S.B (Part) in D.D. 385, Tuen Mun
(RNTPC Paper No. A/TM-SKW/66)

Presentation and Question Sessions

49. 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 self-service barbecue area for a period of 3 years;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Tuen Mun); 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.

The site was in an area where no public stormwater drainage connection was available and the Chief Engineer/Mainland North of Drainage Services Department advised that the drainage proposal submitted by the applicant was not satisfactory. Director of Fire Services also indicated that his “no objection” to the application was only subject to fire service installations (FSIs) being provided to his satisfaction. The site was the subject of two previous planning permissions for temporary barbecue area (Application Nos. A/TM-SKW/47 and A/TM-SKW/63) granted since 2006. Approvals for these two applications were revoked due to non-compliance of approval conditions. Application No. A/TM-SKW/47 submitted by a different applicant was revoked due to non-compliance of the approval condition on implementation of drainage proposal although a total of 33 months were given for the applicant to comply with the condition. The subsequent permission granted under Application No. A/TM-SKW/63 (submitted by the same applicant as the current application) was revoked again due to non-compliance of conditions on submission of drainage and FSIs proposals. In granting the last approval (i.e. Application No. A/TM-SKW/63), the Committee advised the applicant that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given by the Board to any further applications. Despite the above, the applicant had not submitted an acceptable drainage proposal and no FSIs proposal was submitted in this application. Given the previous failures for complying with conditions, there was doubt as to whether the negative impacts of the development, e.g. drainage and fire risk, could be effectively addressed by imposition of conditions. Sympathetic consideration should therefore not be given to the current application.

50. A Member noted that the applicant claimed that he had submitted the drainage and FSIs proposals as required under the approval conditions of the previous planning application to Government departments but the concerned departments were not able to reply before the expiry of the compliance period i.e. 24.3.2010. The Member asked whether the previous revocation was mainly because of insufficient time to resolve the matter. Ms. S. H. Lam referred Members to footnote 2 on P.2 of the RNTPC Paper and explained that in the

previous planning approval, the applicant had submitted drainage proposal on 2.3.2010 and a reply had been sent to the applicant on 19.3.2010 informing him that the proposal was incomplete but no further proposal was received. She said that a reply on the FSIs proposal was also sent to the applicant on 21.12.2009 informing him that his proposal was unacceptable. The same Members asked whether sympathetic consideration could be given to the application, as the applicant seemed to have made effort to comply with the other approval conditions and the comments from Director of Drainage Services on the drainage proposal were not critical and might be possible to resolve. Ms. S.H. Lam explained that the site was the subject of two previous planning applications (Nos. A/TM-SKW/47 and 63) for similar uses. For planning application No. A/TM-SKW/47, the applicant had employed consultants to make submission to comply with approval conditions relating to the submission and implementation of drainage proposal but failed to complete the implementation of the drainage proposal though a total of 33 months had been given to the applicant to comply with the condition. The planning permission was therefore revoked on 10.12.2008. For application No. A/TM-SKW/63, the applicant was advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given to any further applications. The planning permission was revoked on 24.3.2010 for non-compliance of planning conditions related to submission of the drainage and fire service installations proposals. The applicant claimed that the implementation of drainage proposal was difficult as it would have to go through other people's land and might affect the underground utilities. For the subject application, the applicant had not been able to submit a drainage and FSIs proposal that could be acceptable to the concerned Government departments. In response to the same Member's query, Ms. S. H. Lam said that the barbecue activity was in operation and enforcement action was taken against the unauthorized development by the Planning Authority.

51. Another Member asked whether the applicant was aware of the requirement in making the drainage and FSIs proposals. Ms. S. H. Lam said that the applicant was the same as the previous planning application and thus the applicant should know the requirement. Unlike the applicant of application No. A/TM-SKW/67, the applicant of the current application did not ask to find out the comments of departments and attempt to resolve the outstanding issues.

[Mr. Timothy Ma and Mr. Rock Chen arrived to join the meeting at this point.]

Deliberation Session

52. The Secretary asked Members to take note of the two previous planning approvals which were both revoked. She pointed out that the applicant had failed to comply with the implementation of the drainage and FSIs proposals which were costly to implement. In the first application, a total of 33 months had been given to the applicant to comply with the approval conditions. In granting the last approval, the Committee had clearly advised the applicant that sympathetic consideration would not be given to any further application if that permission was revoked again due to non-compliance with the approval conditions. Besides, for the subject application, the applicant had not submitted an acceptable drainage proposal despite the fact that the drainage proposal was considered acceptable in the previous application. In view of the above, Members agreed that the application was considered not acceptable.

53. Members then went through the reasons for not supporting the application as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After further deliberation, the Committee decided to reject the application and the reason was :

- the applicant failed to demonstrate that the development would not cause adverse drainage impacts and fire risk on the surrounding areas as the last planning permission granted to the applicant under Application No. A/TM-SKW/63 was revoked due to non-compliance of approval conditions, and the applicant failed to convince the Committee that he would comply with approval conditions imposed by the Committee.

Agenda Item 15

Section 16 Application

[Open Meeting]

A/TM-SKW/67 Temporary Barbecue Area for a Period of 3 Years
in “Village Type Development” zone,
Lots 263 S.B (Part) and 268 (Part) in D.D. 385 and
Adjoining Government Land in Tai Lam Chung, Tuen Mun
(RNTPC Paper No. A/TM-SKW/67)

54. The Secretary reported that the applicant requested on 25.6.2010 for a deferment of the consideration of the application for two months to address comments of Government departments and prepare further information to substantiate the application. Planning Department had no objection to the request as the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No.33) in that the applicant needed more time to address the departmental comments, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

55. 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.

Agenda Item 16

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-ST/389 Renewal of Planning Approval for Temporary Open Storage
of Recyclable Metal with Ancillary Office under Application
No. A/YL-ST/335 for a Period of 3 Years
in “Residential (Group D)” zone,
Lot 156S.B RP (Part) in D.D. 105 and Adjoining Government Land,
San Tin, Yuen Long
(RNTPC Paper No. A/YL-ST/389)

Presentation and Question Sessions

56. 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 renewal of planning approval for temporary open storage of recyclable metal with ancillary office under application No. A/YL-ST/335 for a period of 3 years;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the statutory publication period, one public comment objecting to the application was received. The public comment was submitted by Designing Hong Kong Limited who commented that the use of the site for open storage was a blight on the environment and not in line with the planning intention for the area. The commenter suggested that a condition requiring a plan for quality landscaping and well designed fencing of the site be imposed should the application be approved; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the

temporary use could be tolerated for a period of three years based on the assessments given in paragraph 12 of the paper. The application was considered in line with the “Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” (TPB PG-No. 13E) in that there were previous approvals and there were no major adverse departmental comments on/objection to the application. The applied use was considered not incompatible with the surrounding land uses, which included open storage yards of containers, container tractors/medium goods vehicles and lorry cranes for sale and vehicle parks (including container tractor/trailer parks). Besides, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “Residential (Group D)” zone as there was no known development proposal for this part of the zone. The site was the subject of 2 applications (No. A/YL-ST/260 and 335) for the same use approved since 2004. The renewal application complied with ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ in that there was no major change in the planning circumstances in the area. Approval conditions for the last planning permission granted under Application No. A/YL-ST/335 had been complied with. Regarding the public comment, the approval conditions to address environmental concerns and to require maintenance of the existing landscape planting, paving and boundary fencing were proposed.

57. Members had no question on the application.

Deliberation Session

58. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years from 28.7.2010 to 27.7.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the setting back of the northern boundary of the site to avoid encroachment

upon the resumption limit of the project 'Cycle Tracks Connecting NWNT with NENT – Section from Tuen Mun to Sheung Shui' as and when required by the Government to the satisfaction of the Director of Lands or of the TPB;

- (b) no night-time operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (d) no dismantling, repairing, cleansing or any other workshop activities should be carried out on the application site at any time during the planning approval period;
- (e) the paving and boundary fencing on the site should be maintained at all times during the planning approval period;
- (f) the existing landscape planting on the site should be maintained at all times during the planning approval period;
- (g) the drainage facilities on the site should be maintained at all times during the planning approval period;
- (h) the submission of an as-built drainage plan and photographic records of the existing drainage facilities within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 28.1.2011;
- (i) the submission of fire service installations proposals within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.1.2011;
- (j) in relation to (i) above, the provision of fire service installations proposed

within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.4.2011;

- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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 (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.

59. The Committee also agreed to advise the applicant of the following :

- (a) to resolve any land issue relating to the development with the concerned owner(s)/licensee of the application site;
- (b) to note the District Lands Officer/Yuen Long's comments that the lot within the site was Old Schedule Agricultural Lot held under the Block Government Lease under which no structure was allowed to be erected without prior approval from his office; there was an unauthorized structure (including converted containers) on the lot within the site. Besides, the Government Land (GL) within the site was also occupied without approval from his Office. His office reserved the right to take enforcement/control action against these irregularities, if indeed found in due course; should planning approval be given, the occupier of the GL/registered owner(s) of lot(s) concerned should apply to his office for Short Term Tenancy (STT)/Short Term Waiver (STW) to regularize 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(s) according to the prevailing programme of his office in this regard; and the ingress/egress of the site opens to a piece of GL where his office did not guarantee right-of-way nor provide maintenance service for the access on GL outside public road ;

- (c) to note Commissioner for Transport's comments that the land status of the road/path/track leading to the site from Castle Peak Road – San Tin 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;
- (d) to note the Chief Highway Engineer/New Territories West, Highways Department's comments that his Department should not be responsible for the maintenance of any access connecting the application site and Castle Peak Road – San Tin;
- (e) 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;
- (f) to note the Drainage Services Department's detailed comments as indicated in Appendix VI of the Paper;
- (g) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the granting of the 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; and formal submission of any proposed new works, including any temporary structure for approval under the BO was required. Detailed comments on the proposal would be made at

formal building plans submission stage; and

- (h) to note the Director of Fire Services' comments that fire service installations (FSIs) were required in consideration of the design/nature of the proposed structure or standalone structure used as an ancillary office, the applicant was advised to make reference to the requirements : portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. Should the applicant wish to apply for exemption from the provision of certain FSIs, the applicant was required to provide justification to his Department for consideration.

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

Agenda Item 17

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/683 Temporary Open Storage of Recyclable Materials
(Plastic, Paper and Metal) with Ancillary Workshop and
Recycling of Used Electrical Appliances for a Period of 3 Years
in "Undetermined" zone,
Short Term Tenancy No. 1869, Ha Tsuen, Yuen Long
(RNTPC Paper No. A/YL-HT/683)

Presentation and Question Sessions

60. 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 recyclable materials (plastic, paper and metal) with ancillary workshop and recycling of used electrical appliances for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) advised that one air pollution complaint against the site was received in 2008. The current application included recycling of electrical appliances and storage of electronic waste (e-waste) which might cause soil and underground contamination to the site and the vicinity if handled improperly. Run-off from the site, which contained contaminating materials, might impact the water quality of the receiving water bodies. The applicant's responses did not include any prevention control or mitigation measure for the handling and storage of electrical appliances or e-waste to address the concerns on environmental impacts. Furthermore, as the proposed use involved workshop activities, it would be more likely for contaminating materials to be exposed to the environment. As such, the applied use was considered environmentally undesirable, and he did not support the application;
- (d) during the statutory publication period, one public comment was received. The commenter considered that the open storage use was a blight on the environment, and not in line with the planning intention for the area. She said that the site which fell within Category 3 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) was not suitable for open storage use. She considered that a condition requiring a quality landscape plan and well-designed perimeter fencing to mitigate the blight should be imposed should the application be approved; and
- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary open storage of recyclable materials (plastic, paper and metal) with ancillary workshop could be tolerated for a period of one year, but did not support the recycling of used electrical appliances based on the assessments given in paragraph 12 of the paper. While DEP had no

objection to the open storage of recyclable materials (plastic, paper and metal) with ancillary workshop under application, he did not support the recycling of electrical appliances (and storage of e-waste) as it might cause soil contamination and water quality impacts, and the applicant's submission was inadequate in addressing the concern on environmental impact. Furthermore, the Committee had never approved any use involving electrical appliances/e-wastes within the subject "Undetermined" zone. As such, an approval condition prohibiting the handling (including loading, unloading and storage) of electrical appliances, electronic and computer wastes was recommended. Recycling of used electrical appliances aside, the remaining part of the application, i.e. open storage of recyclable materials (plastic, paper and metal) with ancillary workshop, was in line with the TPB PG-No. 13E in that the application site fell within Category 1 area and DEP and the commenter's concerns could be addressed by way of approval conditions. The Committee had approved 4 previous applications for similar temporary open storage uses since 1996. There had been no material change in the planning circumstances. Noting that the last previous approval (Application No. A/YL-HT/626) submitted by the applicant at the site was revoked due to non-compliance with such approval condition on handling of electronic and computer wastes, a shorter approval period of 1 year was proposed to monitor the situation of the site. Regarding the public comments on landscape concern, approval conditions requiring the submission and implementation of a tree preservation and landscaping proposal had been recommended.

61. Members had no question on the application.

Deliberation Session

62. After deliberation, the Committee decided to partially approve the application for the open storage of recyclable materials (plastic, paper and metal) with ancillary workshop, on a temporary basis for a period of 1 year, until 16.7.2011, 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 but reject the application for the recycling of used electrical appliances:

- (a) no night-time operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays or public holidays was allowed on the site during the planning approval period;
- (c) no handling (including loading, unloading and storage) of electrical appliances, electronic and computer wastes was allowed on the site during the planning approval period;
- (d) the existing drainage facilities implemented under the previous approved Application No. A/YL-HT/449 should be maintained during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 16.10.2010;
- (f) the submission of a tree preservation and landscape proposal within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.10.2010;
- (g) in relation to (f) above, the implementation of the tree preservation and landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.1.2011;
- (h) 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 16.10.2010;
- (i) in relation to (h) above, the implementation 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 16.1.2011;

- (j) 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
- (k) if any of the above planning conditions (e), (f), (g), (h) or (i) 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.

63. The Committee also agreed to advise the applicant of the following :

- (a) prior planning permission should have been obtained before commencing/continuing the applied use at the site;
- (b) the permission was given to the open storage of recyclable materials (plastic, paper and metal) with ancillary workshop under application. It did not condone to the recycling of used electrical appliances being applied for or any other use/development which might currently exist on the site but not covered by the application. The applicant should take immediate action to discontinue such use/development not covered by the permission;
- (c) a shorter approval was granted in order to monitor the situation of the site and the compliance periods were shortened correspondingly. Should the applicant fail to comply with the approval conditions resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (d) to note the District Lands Officer/Yuen Long's comments that his office did not guarantee the right-of way of the vehicular access through other private lots to the site from Ping Ha Road;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects

of Open Storage and Temporary Uses' issued by the Director of Environmental Protection to minimize the possible environmental impacts on the nearby sensitive receivers;

- (f) to note the Commissioner for Transport'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 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;
- (h) to note the Director of Fire Services' comments on the requirements of formulating fire service installations (FSI) proposals as stated in Appendix V of the Paper. Detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s). The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSI, the applicant was required to provide justifications to him for consideration;
- (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 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; offices and stores under application (including containers, if any) were considered as temporary buildings and were subject to control under Building (Planning) Regulation (B(P)R) Part VII; formal submission of any proposed new works, including any temporary structure for approval under the BO was required; if the site did not abut a specified street having a width not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage; and provision of emergency vehicular access was applicable under B(P)R 41D; and

- (j) to note the Chief Engineer/Development (2), Water Supplies Department's (WSD's) comments 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 (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 WSD's standards.

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

Agenda Item 18

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/686 Renewal of Planning Approval for Temporary Open Storage
of Containers under Application No. A/YL-HT/499
for a Period of 3 Years in "Undetermined" zone,
Lot No. 108 S.B (Part) in D.D.124, Ha Tsuen, Yuen Long
(RNTPC Paper No. A/YL-HT/686)

Presentation and Question Sessions

64. Mr. Anthony C.Y. Lee, STP/TMYL, informed the meeting that a replacement

page of Page 10 of the Paper to revise the approval conditions (f) and (g) to indicate the compliance period from the commencement of the renewed planning approval had already been distributed to Member. He then 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 containers under application No. A/YL-HT/499 for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the site and the access road (Tin Ha Road) and environmental nuisance was expected. However, no pollution complaint against the site was received between January 2004 and April 2010;

[Dr. W. K. Yau left the meeting at this point.]

- (d) during the statutory publication period, one public comment was received. The commenter considered that the open storage use was a blight on the environment, and not in line with the planning intention for the area. She said that the site which fell within Category 3 areas under the “Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” (TPB PG-No. 13E) was not suitable for open storage use. The commenter considered that a condition requiring a quality landscape plan and well-designed perimeter fencing to mitigate the blight should be imposed; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use could be tolerated for a period of three years based on the assessments given in paragraph 12 of the paper. The sites fell within Category 1 areas under the TPB PG-No. 13E. The development was in line with the TPB PG-No. 13E in that there was no adverse comment from other

concerned Government departments except DEP who's comment could be addressed by way of imposing approval conditions. Besides, there had not been any environmental complaints against the site over the past 3 years. Renewal of the application was in line with the Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34A) in that there had been no material change in planning circumstances since the previous approval (Application No. A/YL-HT/499) was granted. Regarding the public comments, the site was a westward extension of an existing container yard, and fencing and landscaping were being provided along the western periphery of the site. Approval conditions requiring the submission and implementation of a tree preservation and landscaping proposal had been recommended.

65. Members had no question on the application.

Deliberation Session

66. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years, from 28.7.2010 to 27.7.2013, 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 8:00 a.m., as proposed by the applicant, should be carried out at the application site during the planning approval period;
- (b) no operation on Sundays and public holidays was allowed on the site during the planning approval period;
- (c) the stacking height of containers stored within 5m of the periphery of the site should not exceed the height of the boundary fence, and should not exceed 7 units at any other location within the site, as proposed by the applicant, during the planning approval period;

- (d) the existing drainage facilities implemented under the previous approved application No. A/YL-HT/499 should be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 27.1.2011;
- (f) the submission of a tree preservation and landscape proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the TPB by 27.1.2011;
- (g) in relation to (f) above, the implementation of the tree preservation and landscape proposal within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the TPB by 27.4.2011;
- (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; and
- (i) if any of the above planning conditions (e), (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.

67. The Committee also agreed to advise the applicant of the following :

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (b) to note the comments of the District Lands Officer/Yuen Long (DLO/YL)

that the lot under application was an Old Schedule Agricultural Lot held under the Block Government Lease under which no structure was allowed to be erected without his prior approval. He did not guarantee right-of-way through or provide maintenance works to the informal access track, which ran on other private land and Government land;

- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department to maintain the drainage facilities on-site in good condition and ensure that the development would not obstruct overland flow and surface runoff generated from the site or passing through the site at all times, and to consult DLO/YL and seek consent from the relevant owners if any works were to be carried out outside the site boundary;
- (d) to follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' issued by the Director of Environmental Protection to minimize the possible environmental impacts on the nearby sensitive receivers; and
- (e) to note the comments of the Commissioner for Transport 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 this road/path/track should be clarified with the relevant lands and maintenance authorities accordingly.

[Professor Paul Lam left the meeting at this point.]

Agenda Item 19

Section 16 Application

[Open Meeting]

A/YL-NSW/197

Proposed Residential Development and Filling of Ponds

in “Undetermined” zone,

Lots 12, 13 RP and 14 in D.D. 103 and Lots 625 S.B, 625 RP, 627 RP, 630 S.B RP (Part), 634 S.A (Part), 635 (Part), 636 S.A (Part), 637, 638, 660, 661, 662, 663, 664, 665, 712 RP (Part), 794 S.A (Part), 1288 S.K, 1288 RP, 1292 RP and 1327 RP (Part) in D.D. 115 and Adjoining Government Land, Tung Shing Lei, Nam Sang Wai, Yuen Long (RNTPC Paper No. A/YL-NSW/197A)

68. The Secretary reported that the applicant requested on 29.6.2010 for a deferment of the consideration of the application for two months to allow sufficient time for the preparation of further information in view of the departmental comments received. Planning Department had no objection to the request for deferment as the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No.33) in that the applicant needed more time to prepare further information to address the departmental comments received including those from the Director of Environmental Protection and Director of Agriculture, Fisheries and Conservation, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

69. 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.

Agenda Item 20

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NSW/199 Proposed House (Redevelopment Only) and Filling of Ponds
in “Conservation Area” and “Other Specified Uses” annotated
“Comprehensive Development to include Wetland Restoration Area”
zones, Lots 3720 S.F ss.1 and 3720 S.F RP in D.D. 104,
Man Yuen Chuen, Nam Sang Wai, Yuen Long
(RNTPC Paper No. A/YL-NSW/199)

Presentation and Question Sessions

70. 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 with the application site fell within an area zoned “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) (about 51.3%) and “Conservation Area” (“CA”) (48.7%);
- (b) the proposed house (redevelopment only) and filling of ponds;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application. The site was located adjacent to an existing open storage yard for containers. The future residents of the proposed development would likely be subject to potential Industrial/Residential (I/R) interface problem from such open storage yard. Moreover, the site fell partly within the Wetland Conservation Area (WCA) and partly within the Wetland Buffer Area (WBA) as stipulated in the Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12B). The proposed house development which would involve filling of ponds was considered undesirable. He considered imposition of planning condition inappropriate to tackle the I/R interface problem and the problem should be resolved more effectively by proper

land use planning. The proposed development would very likely constitute a Designated Project. The applicant was required to follow the statutory Environmental Impact Assessment Ordinance process to obtain the Environmental Permit before commencement of construction. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application. The site straddled across WCA and WBA in Deep Bay. According to TPB PG No. 12B, the planning intention of WCA was to conserve the ecological value of the fishponds. Development or redevelopment within WCA or WBA which required planning permission from the Board should be supported by an Ecological Impact Assessment (EcoIA) with field investigation covering a period of not less than 12 months to demonstrate that the development would not result in a net loss in wetland function and negative disturbance impact. However, such EcoIA as required under the aforesaid Guidelines was not found in the current submission. In this connection, the applicant was unable to demonstrate that the development/redevelopment would not result in net loss in wetland functions and possible on-site and/or off-site negative disturbance impacts. Furthermore, the proposed filling of a portion of a fish pond, which formed part of the continuous and adjoining fish pond system in WCA, would result in net loss of wetlands in terms of both size and functions. However, the applicant did not provide any proposal for wetland compensation and mitigation measures to guard against possible disturbance. The pond proposed to be filled was still being used for fish culture and hence the proposal was not supported from aquaculture development point of view. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application. New development was discouraged unless it was required to support the conservation of the ecological integrity of the wetland ecosystem or the development was an essential infrastructure project with overriding public interest. The proposed development would fill a portion of an existing pond which was not compatible with the planned wetland and fish pond landscape environment of the "CA" zone. No mitigation measure was proposed to compensate for the loss of fish pond and this was not in line with the 'no-net-loss on wetland' principle mentioned in the

OZP. In addition, no landscape mitigation measures were submitted for the loss of the landscape resources. As such, the landscape impact of the proposed development could not be assessed. Existing ponds were important visual resources. There was also no information in the submission on assessing the potential impact of the proposed pond filling and providing relevant mitigation measures. The visual impact could not be assessed;

- (d) during the statutory publication period, one public comment was received from Designing Hong Kong Limited who objected to the application on grounds of the absence of ecological baseline status and wetland compensation plan to address the ecological concerns of the proposed development; 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 application involved redevelopment of two existing semi-detached houses within the “OU(CDWRA)” zone into two new houses. The proposed house on the eastern side fell entirely within the “OU(CDWRA)” zone where rebuilding of an existing house to NTEH was always permitted. The house on the western side fell within the “CA” zone within which planning permission was required. The disposition of the houses was proposed to be shifted to tally with the boundaries of the concerned sub-divided lots in such a way that one of the proposed houses would fall within the “CA” zone which formed part of the WCA. According to the applicant, this shifting of location would require filling of the pond within the site. However, this pond filling did not seem to be necessary since the footprint of the proposed house did not encroach upon the existing pond within the site. The applicant had not provided any strong justification for the proposed pond filling within “CA” zone. According to the TPB PG-No. 12B, new development within the WCA would normally not be allowed, and any development within the WCA (including NTEH and pond filling) should be supported by an EcoIA to demonstrate that no net loss in wetland function and negative disturbance impact would be resulted.

Wetland compensation was required for development involving pond filling and mitigation measures against disturbance would be necessary. It was also the planning intention of the “CA” zone to conserve the ecological value of wetland and fish ponds which formed an integral part of the wetland ecosystem in the Deep Bay Area. The “no-net-loss in wetland” principle was adopted for any change in use within this zone. However, no EcoIA/wetland compensation plan had been submitted to demonstrate that the proposed redevelopment and pond filling would not result in a net loss in wetland function and on-site and/or off-site negative disturbance impacts, or that such impacts could be fully mitigated through positive measures. DEP objected to the application as the future residents of the proposed redevelopment would likely be subject to potential I/R interface problem from the nearby open storage yard. No similar application within the same “CA” zone had been granted by the Committee. The approval of the application would set an undesirable precedent for similar applications, and the cumulative effect of approving such applications would result in a general degradation of the environment of the area and the ecological function of the WCA.

71. Members had no question on the application.

Deliberation Session

72. Members then went through the reasons for not supporting the application as stated in paragraph 13.1 of the Paper and considered that they were appropriate. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed redevelopment and pond filling did not comply with the Town Planning Board Guidelines No. 12B for "Application for Developments within Deep Bay Area" in that no ecological impact assessment or wetland compensation plan had been submitted to demonstrate that no net loss in wetland function and on-site and/or off-site disturbance impact would be resulted, or that such impacts could be fully mitigated through positive measures;

- (b) the proposed redevelopment and pond filling were not in line with the planning intention of the “Conservation Area” zone which was intended to conserve the ecological value of wetland and fish ponds forming an integral part of the wetland ecosystem in the Deep Bay Area and any change in use within this zone had to adopt the “no-net-loss in wetland” principle. There were no strong planning grounds to justify a departure from the planning intention;
- (c) the applicant failed to demonstrate in the submission that the proposed pond filling was necessary;
- (d) no information had been included in the submission to demonstrate how the adjoining lots would not be affected by the proposed pond filling; and
- (e) the approval of the application would set an undesirable precedent for similar applications, and the cumulative effect of approving such applications would result in a general degradation of the environment of the area and the ecological function of the Wetland Conservation Area.

[The Chairman thanked Mr. Anthony Lee, STP/TMYL, for his attendance to answer Members’ enquiries. Mr. Lee left the meeting at this point.]

Agenda Item 21

Section 16 Application

[Open Meeting]

A/YL-KTN/317 Proposed Residential Development and Enhanced Wetland Reserve in “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” zone,
Lots 111 RP, 112 RP, 114 RP, 115 RP, 116 RP, 120 RP,
260 RP (Part), 261 RP, 262 RP, 263 (Part), 264 S.(A to D) RP,
264 S.(E to H) RP, 266 S.B RP, 268 S.(A to B) (Part), 268 S.C RP
and 269 S.B (Part) in D.D. 109 and Adjoining Government Land,
Kam Tin, Yuen Long
(RNTPC Paper No. A/YL-KTN/317)

73. Dr. James C.W. Lau had declared an interest in this application as he had current business dealings with Ho Tin & Associates Consulting Engineers Limited, which was one of the consultants for the application. The Committee noted that Dr. Lau had tendered apologies for being not able to attend the meeting.

74. The Secretary reported that the applicant requested on 14.7.2010 for a deferment of the consideration of the application for one month in order to allow more time for continuing coordination with the respective Government departments for the application. Planning Department had no objection to the request for deferment as the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No.33) in that the applicant needed more time for coordination with the relevant government departments for the application, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

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 one

month was allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 22

Section 16 Application

[Open Meeting]

A/YL-KTN/343 Proposed Temporary Open Storage of Construction Materials
with Ancillary Office for a Period of 3 Years
in “Agriculture” zone,
Lots 126 S.A, 126 S.B, 126 RP, 149 RP (Part) and
151 RP (Part) in D.D. 110, Pat Heung, Yuen Long
(RNTPC Paper No. A/YL-KTN/343)

76. The Secretary reported that the applicant requested on 14.7.2010 for a deferment of the consideration of the application for one month in order to allow time to prepare supplementary information to the Board for the application. Planning Department had no objection to the request for deferment as the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No.33) in that the applicant needed more time to prepare supplementary information for the application, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

77. 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.

Agenda Item 23

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTS/495 Temporary Shop and Services (Real Estate Agency)
for a Period of 3 Years in “Agriculture” zone,
Lot 1384 S.A RP (Part) in D.D. 112, Kam Sheung Road, Yuen Long
(RNTPC Paper No. A/YL-KTS/495)

Presentation and Question Sessions

78. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary shop and services (real estate agency) for a period of 3 years;
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had some reservation. The landscape in the surrounding area of the site was predominately rural and characterized by mixed uses including low-rise residential houses, village clusters and fallow fields. The shop and services use was uncommon in the area and the existing structure, which appeared to be built recently for warehouse/workshop use, was relatively big for the proposed real estate agency shop and left very limited or no space at the site’s periphery for screen tree planting. No information was provided in the application to demonstrate that the proposed use would be compatible with the surrounding rural landscape;
- (d) during the statutory publication period, one public comment from a local villager of Shui Tsan Tin Village was received. He strongly objected to the application as the development would affect the pedestrians and passengers who were boarding and alighting buses or waiting at the bus stop close to the site given the pavement was narrow. There were many

real estate agencies at Kam Sheung Road. The approval of similar applications would set undesirable precedent and significantly reduce agricultural land or land suitable for planting of trees thereby causing adverse landscape impact; and

- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use could be tolerated for a period of three years based on the assessments given in paragraph 11 of the paper. The development for real estate agency was considered not incompatible with the surrounding land uses which were predominated by open storage yards, warehouses, a workshop, a village office, scattered residential structures, agricultural land and vacant/unused lands. In view of its small scale, the environmental nuisance generated by the development would unlikely be significant. It was considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the planning intention of the “Agriculture” zone. Regarding the comments from CTP/UD&L, the development was located at the northern side of Kam Sheung Road and was considered not incompatible with the open storage, warehouse and workshop uses concentrated at the same side of the road, whereas the southern side of Kam Sheung Road was mainly occupied by amenity areas, an orchid farm, a parking lot, an open storage yard and large pieces of vacant/unused land. Regarding the public comment on traffic and landscape grounds, the relevant departments including Commissioner for Transport and Commissioner of Police had no adverse comment on the application. Approval conditions were recommended to address the landscape concern.

79. Members had no question on the application.

Deliberation Session

80. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 16.7.2013, 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 7:30 p.m. and 10:30 a.m. daily, as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) the submission of landscape and tree preservation proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.1.2011;
- (c) in relation to (b) above, the implementation of landscape and tree preservation proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.4.2011;
- (d) the submission of 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 16.1.2011;
- (e) in relation to (d) above, the implementation of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 16.4.2011;
- (f) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of Director of Fire Services or of the TPB by 16.1.2011;
- (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 Director of Fire Services or of the TPB by 16.4.2011;
- (h) if the above planning condition (a) 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 (b), (c), (d), (e), (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.

81. The Committee also agreed to advise the applicant of the following :

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) to note the District Lands Officer/Yuen Long's comments that Short Term Waiver (STW) No. 2108 was approved to Lot No. 1384ARP (Portion) in D.D. 112 permitting structures with built-over area not exceeding 400m² and height not exceeding 5m, for the use of air-conditioner assembly and repair workshop. His office had received an application for change of user. Vehicular access to Kam Sheung Road via short stretch of Government land (GL) was allowed under provisions contained in the STW. The waiveree was required to maintain this part of GL;
- (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 Director of Environmental Protection to minimise any potential environmental nuisances;
- (d) to note the Chief Highway Engineer/New Territories West, Highways Department's comments that his department was not/should not be responsible for the maintenance of any existing vehicular access connecting the site and Kam Sheung Road;
- (e) 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 in Appendix II of the Paper. Should the applicant wish to apply for exemption from the provision of certain FSIs, the applicant was required to provide justifications to his department for consideration; and

- (f) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that all unauthorized structures on the site should be removed. All building works were subject to compliance with the Buildings Ordinance. Authorized Person had to be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

Agenda Item 24

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/481 Temporary Container Tractor and Trailer Park
for a Period of 3 Years in "Undetermined" zone,
Lot 2817 RP (Part) in D.D. 120, Kung Um Road, Yuen Long
(RNTPC Paper No. A/YL-TYST/481)

Presentation and Question Sessions

82. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary container tractor and trailer park for a period of 3 years;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application in accordance with the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” as there were sensitive receivers of residential uses to the south and southwest of the site, and environmental nuisance was expected. However, there was no environmental complaint concerning the site received in the past 3 years;
- (d) during the statutory publication period, one public comment was received from Designing Hong Kong Limited. The commenter objected to the application as it considered that the use of the site for open storage was a blight to the environment, and the applied use was not in line with the planning intention of the “Undetermined” (“U”) zone for the area which was not suitable for open storage use as it fell within Category 3 areas under the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E). The commenter also requested the Board to impose a condition on landscaping and peripheral fencing; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use could be tolerated for a period of three years based on the assessments given in paragraph 12 of the paper. The application was generally in line with the TPB PG-No.13E in that the concerns of relevant departments were technical in nature which could be addressed through the implementation of approval conditions. There were also similar applications in this part of the “U” zone, i.e. Category 1 areas under TPB PG-No. 13E, that had been approved with conditions. Although the site was zoned “U”, the area was generally intended for open storage and port back-up uses. It was considered that approval of the application on a temporary basis for not more than 3 years would not frustrate the long-term use of the area. The development was not incompatible with the surrounding areas which were predominantly used for open storage yards, warehouses and workshops. Regarding DEP’s comment, no

environmental complaint concerning the site was received in the past 3 years. Besides, the nearest residential structure was located at about 50m away from the site and was separated from the site by other uses. Vehicles to and from the site would not need to pass through the nearby residential structures. The development would not expect to generate significant environmental impact on the surrounding areas. Previous planning approvals had been granted for the same use on the site under Application Nos. A/YL-TYST/107, 222 and 334. The approval conditions in relation to the landscaping and drainage aspects under the last two approvals had been complied with. Regarding the public comments on land use compatibility, landscaping and visual grounds, the site fell within Category 1 areas under TPB PG-No. 13E where favourable consideration would normally be given to applications for open storage and port back-up uses. Moreover, the site had already been fenced off and planted with a number of trees. Approval conditions requiring the submission and implementation of tree preservation and landscape proposals could also be imposed to address the landscape and visual concerns.

83. Members had no question on the application.

Deliberation Session

84. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 16.7.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no vehicle dismantling, vehicle repairing or other workshop activities, as proposed by the applicant, should be carried out on the application site at any time during the planning approval period;
- (b) the submission of tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.1.2011;

- (c) in relation to (b) above, the implementation of tree preservation and landscape proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 16.4.2011;
- (d) the submission of 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 16.1.2011;
- (e) in relation to (d) above, the implementation of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 16.4.2011;
- (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 16.1.2011;
- (g) in relation to (f) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 16.4.2011;
- (h) if the above planning condition (a) 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 (b), (c), (d), (e), (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 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.

85. The Committee also agreed to advise the applicant of the following :

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (c) to note the District Lands Officer/Yuen Long, Lands Department's comments that Short Term Waiver (STW) No. 2429 had been issued for the site permitting structures for container tractor and trailer park with maximum built-over area (BOA) of 25 m² and height of 3.6m. Excessive BOA was a breach of the STW and was liable for enforcement. The registered lot owners concerned should apply to his office for modification of STW to regularize the irregularities on the site. Should no such application be received/approved and the irregularities persist on-site, his office would consider taking appropriate enforcement action against the registered owners. Besides, the site was accessible through an informal village road on Government land extended from Kung Um Road. His office did not provide maintenance works for this Government land nor guarantee right-of-way. This access was also abutting the boundary of an active project, namely "Yuen Long and Kam Tin Sewage Treatment, Stage 2B-2T (Yuen Long South Branch Sewers)", undertaken by the Drainage Services Department;
- (d) to note the Commissioner for Transport's comments that the land status of the road/path/track leading to the site from Kung Um Road 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;
- (e) to note the Chief Highway Engineer/New Territories West, Highways Department's comments that his Department should not be responsible for the maintenance of any access connecting the application site and Kung

Um Road;

- (f) to follow the latest “Code of Practice on Handling the 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 that there were discrepancies of location and number of existing trees between those indicated on the Landscape and Tree Preservation Proposal included in the application and the actual situation as observed on-site. Moreover, when compared with the implemented and accepted landscape works for the previously approved application, 4 trees were found missing along the southern boundary of the site. Replacement planting was therefore required;
- (h) to note the Chief Engineer/Mainland North, Drainage Services Department’s comments that the drainage proposal included in the application was different from the approved drainage proposal under the previous application (No. A/YL-TYST/334). An updated drainage proposal should be submitted and implemented;
- (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 requirement that, for each of the container-converted storerooms, portable hand-operated approved appliance should be provided as required by occupancy and should be clearly indicated on plans. Should the applicant wish to apply for exemption from the provision of certain FSIs as required, the applicant should provide justifications to his Department for consideration; and

- (j) to note the Chief Building Surveyor/New Territories West, Buildings Department's comments that the existing structures that apparently had not been obtained approval under the Buildings Ordinance should be removed. Formal submission under the Buildings Ordinance was required for any proposed new works, including any temporary structures. The two proposed container-converted storerooms were considered as temporary buildings and were subject to control under the Building (Planning) Regulations (B(P)R) Part VII. The site should be provided with means of obtaining access thereto from a street under B(P)R 5 and emergency vehicular access should be provided under B(P)R 41D. If the site did not abut 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.

[The Chairman thanked Mr. Kepler S.Y. Yuen, STP/TMYL, for his attendance to answer Members' enquires. Mr. Yuen left the meeting at this point.]

Agenda Item 25

Any Other Business

86. The Chairman and Members congratulated Mr. Stephen Yip for being awarded a Bronze Bauhinia Star in recognition of his contributions to the community.

87. There being no other business, the meeting was closed at 4:15 p.m..