

TOWN PLANNING BOARD

Minutes of 453rd Meeting of the Rural and New Town Planning Committee held at 2:30 p.m. on 18.11.2011

Present

Director of Planning
Mr. Jimmy C.F. Leung

Chairman

Mr. Walter K.L. Chan

Vice-chairman

Mr. B.W. Chan

Professor Edwin H.W. Chan

Professor Paul K.S. Lam

Dr. C.P. Lau

Ms. Anita W.T. Ma

Mr. Timothy K.W. Ma

Dr. W.K. Yau

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

Assistant Director (2), Home Affairs Department
Mr. Eric K.S. Hui

Assistant Director (Environmental Assessment),
Environmental Protection Department
Mr. H.M. Wong

Assistant Director/New Territories,
Lands Department
Mr. Edwin W.K. Chan

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

Secretary

Absent with Apologies

Mr. Rock C.N. Chen

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Dr. James C. W. Lau

Dr. W.K. Lo

Mr. Stephen M.W. Yip

In Attendance

Assistant Director of Planning/Board
Mr. C.T. Ling

Chief Town Planner/Town Planning Board
Mr. J.J. Austin

Town Planner/Town Planning Board
Mr. Wallace W.K. Tang

Agenda Item 1

Confirmation of the Draft Minutes of the 452nd RNTPC Meeting held on 4.11.2011

[Open Meeting]

1. The draft minutes of the 452nd RNTPC meeting held on 4.11.2011 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

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

Sai Kung and Islands District

[Mr. Ivan M.K. Chung, District Planning Officer/Sai Kung and Islands (DPO/SKIs), and Mrs. Margaret W.F. Lam, Senior Town Planner/Sai Kung and Islands (STP/SKIs), were invited to the meeting at this point.]

Agenda Item 3

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SLC/122	Proposed Utility Installation for Private Project (Electricity Service Box, Moulded Case Circuit Breaker and Main Switch Service Box with Underground Footings) with Excavation of Land in “Coastal Protection Area” zone, Lot No. 370 in D.D. 329, San Shek Wan, Lantau Island (RNTPC Paper No. A/SLC/122)
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Presentation and Question Sessions

3. Mrs. Margaret W.F. Lam, STP/SKIs, presented the application with the aid of a powerpoint and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed utility installation for private project (electricity service box, moulded case circuit breaker and main switch service box with underground footings) with excavation of land;
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as no information had been provided in the submission to demonstrate that the proposed installation would have no adverse impact on the root of the existing trees nearby;
- (d) one public comment from Designing Hong Kong Ltd was received during the first three weeks of the statutory publication period. The commenter raised concerns about the impacts of the proposed development on the trees, the loss of green belt and the issue of maintenance; and

[Professor Edwin H.W. Chan arrived to join the meeting at this point.]

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. Although the proposed installation was not in line with the planning intention of the “Coastal Protection Area” zone, it was an essential ancillary facility for a proposed residential development approved by the Committee under Application No. A/SLC/80. Construction works for the residential development were underway. In this regard, sympathetic consideration could be given to the application. The location of the proposed installation was to meet the operational requirement of the CLP Power Hong Kong Ltd and the proposed service boxes together with the underground footings were considered minor in scale. Relevant

government departments consulted had no adverse comment on the application. The concerns of CTP/UD&L of PlanD could be addressed by the stipulation of a relevant approval condition on the submission and implementation of a landscape proposal. Regarding the concerns raised by the public comment, the applicant had proposed to landscape the remaining portion of the site and no tree felling or extensive clearance of vegetation was anticipated.

4. Members had no question on the application.

Deliberation Session

5. 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 18.11.2015, 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 condition :

- the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the District Lands Officer/Islands that:
 - (i) if the planning application was approved by the Town Planning Board, the applicant would need to apply for a lease modification for the proposed CLP Power Hong Kong Ltd service box, moulded case circuit breaker and main switch service box with underground footings; and
 - (ii) the application for lease modification, if approved by the Lands Department (LandsD) acting in its capacity as the landlord at its discretion, would be subject to such terms and conditions, including

the payment of premium/fee as appropriate, as imposed by LandsD;
and

- (b) to note the comments of the Chief Building Surveyor/New Territories East (1) & Licensing, Buildings Department (BD) that:
 - (i) as the site did not abut a specified street of not less than 4.5m wide, the development intensity (i.e. plot ratio and site coverage) of the proposed works should be subject to determination under Building (Planning) Regulation 19(3); and
 - (ii) a formal submission of the proposal should be submitted to BD for approval and building works should comply with the Buildings Ordinance and Regulations. Authorized Person had to be appointed to coordinate all building works.

Agenda Item 4

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/204 Proposed House (New Territories Exempted House – Small House)
in “Agriculture” zone,
Lot 504 S.A in D.D. 244, Ho Chung, Sai Kung
(RNTPC Paper No. A/SK-HC/204)

Presentation and Question Sessions

7. Mr. Ivan M.K. Chung, DPO/SKIs, rectified an error in the name of the commenter in paragraph 10 of the Paper, which should be read as “Sai Kung Area Committee”. 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 (NTEH) – Small House);
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site had high potential for agricultural rehabilitation. The Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) objected to the application as the site was within the lower indirect water gathering grounds but was not able to be connected to the existing or planned sewerage system in the area. The Director of Environmental Protection (DEP) had reservation on the application as the site was located within water gathering grounds where no sewer was available. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application as site formation works for the proposed Small House might cause adverse impact on the existing streamcourse running through the site and encroach on the adjacent woodland;
- (d) one public comment from the Chairman of the Sai Kung Area Committee was received during the first three weeks of the statutory publication period. The commenter objected to the application because the land use zoning of the site was for agricultural purpose; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the applications based on the assessment made in paragraph 11 of the Paper. The site was zoned “Agriculture” (“AGR”) and DAFC did not support the application. The proposed Small House development did not meet the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ in that the proposed development fell within the lower indirect water gathering grounds where no public sewer was available. Both CE/Dev(2) of WSD and DEP objected to the application as the proposed Small House could not be connected to the existing or planned sewerage system in the area. Although the proposed Small House was not incompatible with the rural landscape character, CTP/UD&L of PlanD had

reservation on the application as its site formation works would have adverse impact on the existing streamcourse running through the site and might encroach on the adjacent woodland. There was a public comment raising objection to the application which was not in line with the planning intention of the “AGR” zone.

8. Members had no question on the application.

Deliberation Session

9. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the application did not meet the assessment criteria in the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ as the proposed development was located within the water gathering grounds and the applicant had not demonstrated that the proposed development would not adversely affect the water quality within the water gathering grounds; and
- (b) the approval of the application would set an undesirable precedent for other similar applications within the water gathering grounds in the “Agriculture” zone. The cumulative effect of approving such similar applications would result in a general degradation of the water quality of the area.

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

Agenda Item 5

Section 16 Application

[Open Meeting]

A/SK-HC/205 Proposed Temporary Film Studio for a Period of 3 Years
in “Recreation” zone,
Lots 77 S.A, 78 (Part), 80 and 81 in D.D. 247
and Adjoining Government Land, Ho Chung, Sai Kung
(RNTPC Paper No. A/SK-HC/205)

10. The Committee noted that the applicant’s representative requested on 2.11.2011 for a deferment of the consideration of the application for two months in order to allow sufficient time to prepare responses to departmental comments.

11. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further 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.

[Professor Paul K.S. Lam returned to join the meeting at this point.]

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-SKT/3 Temporary School (Kindergarten) for a Period of 5 Years
in “Village Type Development” zone,
1/F., 66 Yi Chun Street, Sai Kung
(RNTPC Paper No. A/SK-SKT/3)

Presentation and Question Sessions

12. Mr. Ivan M.K. Chung, DPO/SKIs, said that replacement page 1 of the Paper had been sent to Members before the meeting. He then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary school (kindergarten) for a period of five years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) 56 public comments from members of the public were received during the first three weeks of the statutory publication period. All the commenters supported the application for the reasons that the kindergarten was an important community facility; there was a shortage of English speaking kindergarten in Sai Kung; the kindergarten could enhance the vibrancy of Sai Kung and would provide job opportunities to the local community; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 10 of the Paper. Although the temporary kindergarten under application was not in line with the planning intention of the “Village Type Development” (“V”) zone, the premises was on the first floor of an existing building comprising various commercial uses. The building had not been used as an NTEH/Small house. As advised by the District Lands Officer/Sai Kung, the lease of the subject lot was restricted to ‘building’ purpose and there was no in-principle objection to the temporary kindergarten use from the lease point of view. In this regard, the temporary kindergarten use with separate and direct access to Yi Chun Street was considered not incompatible with the current uses of the existing building. Also, the proposed temporary kindergarten for a period of five years would not jeopardize the long-term planning intention of the “V” zone. In this regard, sympathetic consideration could be given to the application. The previous application

for temporary kindergarten (i.e. A/SK-SKT/2) at the premises was rejected by the Committee and one of the rejection reasons was that there was no information about the premises and the kindergarten for the consideration of the Education Bureau, Buildings Department and Transport Department including the layout of the premises, facilities, size of classrooms, means of escape and traffic arrangement for the pick up/drop off, etc. In the current submission, the applicant had provided detailed information to address the concerns of relevant government departments. Government departments concerned had no objection to or no comment on the current application.

13. Members had no question on the application.

Deliberation Session

14. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 5 years until 18.11.2016, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) 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 18.8.2012; and
- (b) if the above planning condition (a) 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) to liaise with the Education Bureau regarding school registration matters under the Education Ordinance;
- (b) to note the comments of the Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department regarding the issue of certificates and notices specified in section 12(1) of the Education Ordinance by the

licensing authorities;

- (c) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that for provision of fresh 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; and
- (d) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans.

[The Chairman thanked Mr. Ivan M.K. Chung, DPO/SKIs, and Mrs. Margaret W.F. Lam, STP/SKIs, for their attendance to answer Members' enquires. Mr. Chung and Mrs. Lam left the meeting at this point.]

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

Sha Tin, Tai Po and North District

[Ms. Doris S.Y. Ting, Senior Town Planner/Shu Tin, Tai Po and North (STP/STN), and Ms. Jessica K.T. Lee, Town Planner/Shu Tin, Tai Po and North (TP/STN), were invited to the meeting at this point.]

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-FTA/111 Proposed Temporary Production and Stockpile of Mulch
and Compost for a Period of 2 Years and 10 Months
in “Green Belt” zone,
Government Land in Kong Nga Po, Fu Tei Au, Sheung Shui
(RNTPC Paper No. A/NE-FTA/111)

16. The Secretary reported that Dr. James C.W. Lau had declared an interest in this item as he had current business dealings with Hyder Consulting Ltd, which was one of the consultants for the applicant. The Committee noted that Dr. Lau had tendered an apology for being unable to attend the Meeting.

Presentation and Question Sessions

17. Ms. Doris S.Y. Ting, STP/STN, said that replacement pages 10 and 11 of the Paper were tabled at the meeting for Members’ reference. She then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary production and stockpile of mulch and compost for a period of 2 years and 10 months;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) one public comment was received during the first three weeks of the statutory publication period from a North District Council member who indicated support for the application. The District Officer (North) advised that the Vice-Chairman of the Ta Kwu Ling District Rural Committee raised objection to the application on the ground that the storage of compost

would cause environmental pollution and affect the villagers; and

- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under application could be tolerated for a period of 2 years and 10 months based on the assessment made in paragraph 12 of the Paper. The application site fell within an area zoned “Green Belt” (“GB”) and the proposed development generally complied with the TPB Guidelines No. 10 in that there would not be extensive clearance of existing natural vegetation and no tree felling would be required for the proposed use under application. The proposed development was not incompatible with the surrounding land uses and was unlikely to generate significant adverse impacts on the surrounding area. In this regard, concerned government departments had no objection to or comment on the application. To address the concern of the Director of Agriculture, Fisheries and Conservation on the paving of the site, an approval condition regarding the reinstatement of the site upon the expiry of planning approval was recommended. With respect to the local objection that the storage of compost would cause adverse environmental impact to the villagers, it was noted that the Director of Environmental Protection had no adverse comment on the application. Besides, the applicant would be advised to undertake environmental mitigation measures. Moreover, it should be noted that the nearest village was about 300m to the north of the application site, and significant disturbance to the local villagers was not anticipated. Nevertheless, as the previous planning approval was revoked due to non-compliance with the approval conditions in relation to the submission of drainage proposals, tree preservation and landscaping proposals and proposals of water supplies for fire-fighting and fire service installations, shorter compliance periods were proposed to monitor the compliance of the approval conditions.

18. Members had no question on the application.

Deliberation Session

19. After deliberation, the Committee decided to approve the application on a

temporary basis for a period of 2 years and 10 months until 18.9.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission of drainage proposals within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 18.2.2012;
- (b) in relation to (a) above, the implementation of drainage proposals within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 18.5.2012;
- (c) the submission of proposals of water supplies for fire-fighting and fire service installations within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 18.2.2012;
- (d) in relation to (c) above, the provision of 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 18.5.2012;
- (e) the submission of landscape and tree preservation proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 18.2.2012;
- (f) in relation to (e) above, the implementation 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 18.5.2012;
- (g) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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

- (h) upon the expiry of the planning permission, the reinstatement of the site including removal of hard paving on-site to the satisfaction of the Director of Planning or of the TPB.

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

- (a) shorter compliance periods for approval conditions were granted in order to closely monitor the situation in compliance of approval conditions;
- (b) should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (c) to note the comments of the Commissioner for Transport that the vehicular access road connecting to Man Kam To Road and the application site was not maintained by his department. The land status of the access leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to note the comments of the Director of Fire Services that if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) were erected within the site and building plan submission was not required, relevant layout plans incorporated with the proposed fire service installations (FSIs) should be submitted for his approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the locations of the proposed FSIs and the access for emergency vehicles should be clearly indicated on the layout plans. Detailed fire safety requirements would be formulated upon receipt of formal submission of the aforesaid plans. FSIs should be provided according to the approved proposal;
- (e) to note the comments of the Chief Engineer/Development(2), Water

Supplies Department (WSD) that :

- (i) no discharge of effluent within the water gathering grounds was allowed without prior approval from his department. Any effluent discharge had to comply with the Technical Memorandum on Standards for Effluent Discharge into Drainage and Sewerage Systems, Inland and Coastal Waters;
 - (ii) all wastes, sludge and pollutants arising from any activity or work on the application site should be disposed of properly outside the gathering grounds;
 - (iii) all spoils arising from site formation and building works should be contained and protected to prevent all nearby watercourses from being polluted or silting up;
 - (iv) for provision of water supply to the application site, the applicant might need to extend his 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; and
 - (v) the applicant should make his own system to provide adequate pressure and flow for fire-fighting purpose;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape Unit, Planning Department that the quantity of existing trees within the application site was reduced from 25 to 12 as compared to his last site visit in 2009 and the applicant was required to replace the missing trees; and
- (g) 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 8

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTN/148 Temporary Warehouses of Industrial and Construction Materials and Ancillary Workshop for a Period of 3 Years in "Industrial (Group D)" and "Open Space" zones and an area shown as 'Road',
Lots 744 and 749 in D.D. 92, Yin Kong, Sheung Shui
(RNTPC Paper No. A/NE-KTN/148)

Presentation and Question Sessions

21. Ms. Doris S.Y. Ting, STP/STN, said that replacement pages 10 and 12 of the Paper were tabled at the meeting for Members' reference. She then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary warehouses of industrial and construction materials and ancillary workshop for a period of three 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 application site and environmental nuisance was expected. He, however, indicated that there was no environmental complaint against the site in the past three years;
- (d) one public comment was received during the first three weeks of the

statutory publication period from a North District Council member who indicated support for the application. The District Officer (North) advised that the Chairman of the Sheung Shui District Rural Committee had no comment on the application while the Residents Representative of Kwu Tung (South) and the Indigenous Residents Representative of Yin Kong raised objection to the application mainly on the grounds that the temporary use under application might cause traffic congestion, adverse environmental impact, destruction to the tranquil environment of the village, affect the environmental quality of the area, cause safety problem and affect the villagers' health; and

[Professor Paul K.S. Lam returned to join the meeting at this point.]

- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under application could be tolerated for a period of three years based on the assessment in paragraph 11 of the Paper. The application site mainly fell within an area zoned “Open Space” (“O”) and an area shown as ‘Road’ on the OZP. Nevertheless, the Director of Leisure and Cultural Services had advised that there was no programme to develop the “O” zone and had no objection to the application. Moreover, the proposed ‘Road 3’ project which ran through the site had already been dropped by the Highways Department. Besides, the Project Manager/New Territories North and West of Civil Engineering and Development Department had advised that the temporary use of the site until November 2014 would not pose as a constraint to the development of the Kwu Tung North New Development Area. In view of the above, the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the zoned uses on the OZP. The development under application was not incompatible with the surrounding land uses which comprised mainly warehouses, open storage and logistic yards, and fallow agricultural land intermixed with some domestic structures. Although DEP did not support the application on the ground that there were sensitive uses in the vicinity of the site, no environmental complaint had been received against the site in the past three

years. Relevant approval conditions restricting the operation hours were recommended. The application site was involved in three previously approved applications for the same use submitted by the same applicant as the current application. There had been no material change in planning circumstance of the site and the surrounding area since the last approval was given on 13.3.2009. Although the last planning permission under application No. A/NE-KTN/132 was revoked due to non-compliance with approval conditions, the applicant had explained that he had prepared all the required submissions in August 2009 but his agent failed to submit them for approval while he was away in Mainland China. The said submissions including proposal on vehicle run-in/out, photographic record of drainage facilities and landscape and tree preservation proposals were in his current application. Concerned government departments had no particular comments on them and sympathetic consideration might be given. There were local objections to the application on the grounds of adverse impacts on traffic, ecology and greenery of the surrounding areas. In this regard, concerned government departments consulted had no adverse comment/no objection to the application. Since the last approval (Application No. A/NE-KTN/132) was revoked due to non-compliance with the approval conditions, a shorter compliance period was proposed to monitor the progress of compliance of the approval conditions.

22. In response to the enquiry of a Member, Ms. Doris S.Y. Ting said that the two temporary structures were intended for storage of industrial and construction materials. These structures were existing structures that were built earlier on as the application site was involved in three previous applications for temporary warehouses and ancillary workshop use. As the last approval (Application No. A/NE-KTN/132) was revoked on 13.9.2009, the temporary structures had been left vacant.

Deliberation Session

23. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 18.11.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the application site during the planning approval period;
- (c) to maintain the existing drainage facilities properly and rectify those facilities if they were found inadequate/ineffective during the planning approval period;
- (d) to maintain all existing fire service installations and equipment in an efficient working order at all times during the planning approval period;
- (e) the submission of a conditional survey with photographic records of the existing drainage facilities on site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 18.2.2012;
- (f) the submission of tree preservation and landscaping proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 18.2.2012;
- (g) in relation to (f) above, the implementation of tree preservation and landscaping proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 18.5.2012;
- (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.

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

- (a) shorter compliance periods for approval conditions were granted in order to closely monitor the situation in compliance of approval conditions;
- (b) should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (c) to note the comments of the District Lands Officer/North that should planning permission be granted, the owner of the lots should apply to his office for a new Short Term Waiver (STW) and Short Term Tenancy (STT) for the existing structures. There was no guarantee that the STW and STT would be granted to the applicant. If the STW and STT were granted, the grants would be made subject to such terms and conditions to be imposed as the Government should deem fit to do so including the payment of STW fee and STT rent;
- (d) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that existing water mains located on the footpath accessible by the public would be affected. A waterworks reserve within 1.5m from the centreline of the water main should be provided to WSD. No structure should be erected over this waterworks reserve and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize. If not, the applicant should bear the cost of the diversion works;
- (e) to note the comments of the Commissioner for Transport that the vehicular

access to the application site was via a village track with a right of way. The unnamed village track was not under Transport Department's management. In this regard, the land status of the access leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities;

- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that compensatory planting was required within the application site; and
- (g) 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 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTS/315 Temporary Open Storage of Construction Machinery
(Excavators and Crane Lorries) for a Period of 3 Years
in "Agriculture" zone,
Lots 1098 RP (Part), 1099 (Part) and 1100 RP (Part) in D.D. 92
and Adjoining Government Land, Hang Tau Road,
Hang Tau Tai Po, Kwu Tung
(RNTPC Paper No. A/NE-KTS/315)

Presentation and Question Sessions

25. 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 open storage of construction machinery (excavators and crane lorries) for a period of three years;
- (c) departmental comments – the Commissioner for Transport (C for T) did not support the application as there was no information in the application on the vehicular access arrangement; estimated vehicular trip to/from the application site; parking/manoeuvring arrangement within the application site, etc. The Director of Environmental Protection (DEP) had reservation on the application as there were sensitive uses in the vicinity of the site and environmental nuisance was expected. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application as the open storage use was incompatible with its surroundings, which was dominated by the urban fringe landscape character;
- (d) four public comments were received during the first three weeks of the statutory publication period. While one member of the public offered his views on the application, the other three commenters, viz. Designing Hong Kong Ltd, an indigenous inhabitant of Hang Tau Village and a member of the public, raised objection to the application mainly on land use incompatibility, traffic and environmental grounds. The District Officer (North) advised that while the Indigenous Inhabitants Representative of Hang Tau, the Residents Representative of Hang Tau, the Chairman of Incorporated Owners of Richmond Villas and the Chairman of the Mutual Aid Committee of Eden Garden Owners had no comment on the application, the Chairman of the Incorporated Owners of Golf View Garden and Sino Estates Management Ltd of Goodwood Park Customer Service Centre had raised objection to the application on the grounds that the development would cause environmental nuisance to the surrounding area, and lead to an increase in traffic flow and thus overloading the existing road network and worsening of the illegal parking in the area; 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 site fell within Category 3 areas under the TPB Guidelines No. 13E where applications would normally not be approved unless the applications were on sites with previous planning approvals. The development was not in line with the planning intention of the “Agriculture” (“AGR”) zone. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis. The application did not comply with the TPB Guidelines No. 13E in that there was no previous planning approval granted to the application site and no technical assessment/proposals had been submitted to demonstrate that the proposed uses would not generate adverse impacts on the surrounding area; and there were adverse departmental comments and local objections against the application. The development was not compatible with the surrounding rural area and CTP/UD&L of PlanD objected to the application. DEP had reservation on the application as there were sensitive uses in the vicinity of the site. C for T did not support the application as there was no information in the application on the vehicular access arrangement; estimated vehicular trip to/from the site; parking/ manoeuvring arrangement within the site, etc. There were four similar applications for open storage use in the same “AGR” zone and none was approved by the Committee. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. Besides, there were public comments and local objections against the application mainly on land use compatibility, traffic and environmental grounds.

26. Members had no question on the application.

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

Deliberation Session

27. The Chairman noted there were some residential developments in the vicinity and

enquired whether the land use of the area would be reviewed. In response, Ms. Doris S.Y. Ting stated that a land use review of the Kwu Tung South area would soon be carried out but the study area might not cover the subject site.

28. After further deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the development was not in line with the planning intention of the “Agriculture” (“AGR”) zone in Kwu Tung South area which was primarily to retain and safeguard good 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 such planning intention, even on a temporary basis;
- (b) the application did not comply with the Town Planning Board (TPB) Guidelines No.13E for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ in that there was no previous planning approval granted to the application site and no technical assessment/proposals were submitted to demonstrate that the proposed uses would not generate adverse environmental and traffic impacts on the surrounding area; and there were adverse departmental comments and local objections against the application;
- (c) the development was not compatible with the surrounding area which was predominantly rural in character with low-rise residential developments, institutional and recreational uses intermixed with active agricultural land;
- (d) the applicant had failed to demonstrate that the development under application would not generate adverse environmental and traffic impacts on the surrounding area; and
- (e) the approval of the application, even on a temporary basis, would set an

undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in adverse environmental and traffic impacts on the surrounding area.

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/446 Proposed House (New Territories Exempted House - Small House)
in “Agriculture” zone,
Lot 1531 S.A in D.D. 76, Kan Tau Tsuen, Fanling
(RNTPC Paper No. A/NE-LYT/446)

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small House);
- (c) departmental comments – the District Lands Officer/North (DLO/N) objected to the application as the site fell outside the village ‘environs’ (‘VE’) of Kau Tau Tsuen. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site had high potential for agricultural rehabilitation. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as approval of the application would set an undesirable precedent and encourage extension of village houses into the “Agriculture” (“AGR”) zone and the existing trees adjoining the northern and southern boundaries would likely be affected by the proposed Small

House;

- (d) one public comment from a North District Council member indicating no comment on the application was received during the first three weeks of the statutory publication period. The District Officer (North) advised that while the Residents' Representative of Kan Tau Tsuen had no comment on the application, the Chairman of the Fanling District Rural Committee and the Indigenous Inhabitants' Representative of Kan Tau Tsuen had raised objection to the application on the grounds that the site was outside the 'VE' and the road would be overloaded; 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 insufficient land in the "Village Type Development" ("V") zone of Kan Tau Tsuen to meet the demand of village houses. Notwithstanding the above, the application did not comply with the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories' (the Interim Criteria) in that the footprint of the proposed Small House fell entirely outside the 'VE' and "V" zone of Kan Tau Tsuen and would partially block an existing road. Moreover, there was no exceptional circumstances which warranted a sympathetic consideration of the application. In this regard, DLO/N did not support the application and advised that the Small House application would not be considered even if planning permission was granted. The proposed development was not in line with the planning intention of the "AGR" zone and DAFC did not support the application. CTP/UD&L of PlanD had reservation on the application and advised that the landscape character and resources of the site and its surrounding areas had been substantially deteriorated and approval of the application would set an undesirable precedent and encourage extension of village houses into the "AGR" zone. Although there were 34 similar applications for proposed Small House development previously approved by the Committee, they were approved mainly on the consideration that the applications generally complied with the Interim Criteria. There were also three similar applications (No. A/NE-LYT/267,

417 and 440) rejected by the Committee or the Board on review on 19.9.2003, 19.3.2010 and 9.9.2011 respectively on the grounds that the proposed Small House development did not comply with the Interim Criteria as the application sites were outside both the 'VE' and "V" zone. Approval of the current application would thus set an undesirable precedent for other similar applications within the "AGR" zone. Besides, there were local objections to the application on the grounds that the application site was outside the 'VE' and the road would be overloaded.

30. Members had no question on the application.

Deliberation Session

31. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the application did not comply with the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories' (the Interim Criteria) in that the footprint of the proposed Small House fell entirely outside the village 'environs' and "Village Type Development" zone of Kan Tau Tsuen and would partially block an existing road; and
- (b) approval of the application, which did not comply with the Interim Criteria, would set an undesirable precedent for other similar applications within the "Agriculture" zone. The cumulative effect of approving such similar applications would cause adverse landscape impacts on the area.

[Mr. B.W. Chan returned to join the meeting at this point.]

Agenda Item 11

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TKL/375 Proposed House (New Territories Exempted House - Small House)
in “Green Belt” zone,
Lot 26 S.B (part) in D.D.46, Tai Tong Wu, Fanling
(RNTPC Paper No. A/NE-TKL/375)

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small House);
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) commented that extensive vegetation clearance and paving with asphalt had occurred within the application site and the affected area had recently been further extended at the northern boundary of the site. Moreover, the proposed development would likely result in removal or significant pruning of trees in close proximity to the application site. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application as significant disturbance to the existing landscape resources had taken place as a result of felling of trees within the site and approval of the application might attract similar applications in the “Green Belt” (“GB”) zone;
- (d) one public comment from a North District Council member indicating support to the application was received during the first three weeks of the statutory publication period. The District Officer (North) advised that the

Chairman of the Sha Tau Kok District Rural Committee had no comment on the application while the village representatives of Tai Tong Wu supported the application on the grounds that the proposed Small House was within the village ‘environs’ (‘VE’), it was in line with the relevant TPB Guidelines, the applicant had the right to clear the weeds to avoid mosquitoes breeding, and that was the only land available for the applicant to construct Small House within the village; and

- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessment made in paragraph 13 of the Paper. The application site was not in line with the planning intention of the “GB” zone. The proposed development did not meet the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ in that the proposed Small House was not in line with the planning intention of the respective zone and would cause adverse impacts on the surrounding area. Both DAFC and CTP/UD&L of PlanD had reservation on the application as vegetation clearance and paving with asphalt had occurred since 2009. DAFC further advised that the affected area had been extended at the northern site boundary recently. Since the site was located in a woodland forming an integral part of the green belt, CTP/UD&L of PlanD further commented that approval of the application might attract similar applications in the “GB” zone, leading to proliferation of Small Houses in the green belt and thus undermining the intactness of the “GB” zone. In this regard, the application did not comply with the TPB Guidelines No. 10 in that there was a general presumption against development within “GB” zone and the proposed development would affect the existing natural landscape, causing adverse landscape impacts on the surrounding area. No similar application for proposed Small House development had been approved by the Committee within the same “GB” zone in the vicinity of the site. The application site was the subject of three previous applications for proposed Small House development submitted by the same applicant and all of them were rejected by the Committee/the TPB on review. Despite the applicant’s claim that action had been taken to preserve vegetation cover, there had been no material

change in the site condition and planning circumstances since the rejection of the previous applications. Regarding the applicant's justification based on Article 40 of the Basic Law, even assuming that Small House development came within the protection of Article 40 of the Basic Law, insofar as it was subject to the Town Planning Ordinance before 1997, Article 40 of the Basic Law would not have the effect of requiring the TPB to approve the applicant's application after 1997. The site was previously well-vegetated but it was now paved and cleared of vegetation. While the applicant had acknowledged that the site was cleared and formed to prepare for Small House development, there was no clear indication that the site has been reinstated.

33. Members had no question on the application.

Deliberation Session

34. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 14.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the "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 and there was a general presumption against development within this zone;
- (b) the proposed development was not in line with the Town Planning Board Guidelines No. 10 for 'Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance' and the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories' in that it would cause adverse landscape impacts on the surrounding areas as the mature trees in close proximity of the application site were likely to be affected; and

- (c) the approval of the application would set an undesirable precedent for other similar applications within the “GB” zone. The cumulative impacts of approving such applications would affect the integrity of the “GB” zone and cause adverse landscape impacts on the surrounding areas.

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TKL/376 Temporary Vehicle Repair Workshop for Lorry and Container Vehicle, Furniture Repair Workshop, Open Storage of Metal and Steel Materials, Machine Accessories, Machinery and Equipment for Electronic Components with Ancillary Office, Electricity Transformer Room and Lavatory for a Period of 3 Years in “Open Storage” and “Agriculture” zones, Lots 783 and 784 in D.D. 77, Ping Che
(RNTPC Paper No. A/NE-TKL/376)

Presentation and Question Sessions

35. 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 vehicle repair workshop for lorry and container vehicle, furniture repair workshop and open storage of metal and steel materials, machine accessories, machinery and equipment for electronic components with ancillary office, electricity transformer room and lavatory for a period of three years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;

- (d) one public comment from a North District Council member stating no comment on the application was received during the first three weeks of the statutory publication period. The District Officer (North) advised that the Vice-Chairman of the Ta Kwu Ling District Rural Committee had no comment on the application; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. Major portion of the site fell within Category 1 area (83.2%) under the TPB Guidelines No.13E where favourable consideration would normally be given to applications within these areas and minor portion of the site fell within Category 3 area (16.8%) where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals. The site fell within an area mainly zoned “Open Storage” (“OS”) (about 83.2%) and partly zoned “Agriculture” (“AGR”) (about 16.8%). All the uses under application except vehicle repair workshop for container vehicle were always permitted within the “OS” zone and were not incompatible with the surrounding uses. As the temporary uses under application would unlikely have significant adverse impacts on the surrounding area, concerned government departments had no objection to/adverse comment on the application. The application generally complied with the TPB Guidelines No. 13E in that the application site fell mainly within an area zoned “OS” (i.e. Category 1 area) and there were previous planning approvals for similar open storage/workshop uses granted for the site. As compared with the last approval under A/NE-TKL/345, the current application mainly involved the conversion of part of the furniture repair workshop into vehicle repair workshop for lorry and container vehicles. The applicant had submitted technical assessments/proposals to demonstrate that the currently proposed use would not have significant adverse impacts on the surrounding area. Although the development was not in line with the planning intention of the “AGR” zone, the Director of Agriculture, Fisheries and Conservation had no objection to the application as the site had been hard-paved and occupied as

open storage for some years. Moreover, the application site was the subject of seven previous applications for similar open storage/workshop use approved by the Committee. There had been no material change in the planning circumstances and approval of the subject application was in line with the Committee's previous decisions.

36. Members had no question on the application.

Deliberation Session

37. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 18.11.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no 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) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the application site during the planning approval period;
- (c) 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 18.5.2012;
- (d) in relation to (c) 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 18.8.2012;
- (e) 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 18.5.2012;
- (f) in relation to (e) 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 18.8.2012;

- (g) the submission of proposals on 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 18.5.2012;
- (h) in relation to (g) 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 18.8.2012;
- (i) if any of the above planning conditions (a) or (b) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (j) if any of the above planning conditions (c), (d), (e), (f), (g) or (h) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice;

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

- (a) to note the comments of the District Lands Officer/North that the owners of the lots should apply to his office for a new Short Term Waiver (STW) and Short Term Tenancy (STT) for the proposed and existing structures and the regularization of unauthorized occupation of government land. There was no guarantee that STW and STT would be granted to the applicant. If the STWs and STT were granted, the grants would be made subject to such terms and conditions to be imposed as the government should deem fit to do so including the payment of STW/STT fee/rent;
- (b) to note the comments of the Chief Engineer/Development(2), Water Supplies Department that:

- (i) the application site was located within the flood pumping gathering ground;
 - (ii) there was an existing 80mm diameter water mains at the southern part of the development site. No structure or support for any structure, except boundary fences, should be placed or erected and no motor vehicles was allowed to park or remain for any purposes including for display within the area of 1.5 metres from the centrelines of the water mains. Free access should be made available at all times for staff of the Director of Water Supplies or his authorized contractor to carry out construction, inspection, operation, maintenance and repair works to the water mains; and
 - (iii) if the applicant raised requests for diversion of the water mains, the cost of the diversion works should be borne by the applicant;
- (c) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection in order to minimize any possible environmental nuisances;
- (d) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the size, quantity and species of existing trees indicated on the tree preservation and landscape proposals were different from that spotted during his recent site visit. Submission of an updated tree preservation and landscape preservation was required;
- (e) to note the comments of the Director of Fire Services that:
- (i) if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) were erected within the proposed site but no building plan would be circulated to his department via the Centralized Processing System of Buildings

Department, the applicant was required to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to his department for approval and to subsequently provide the FSIs in accordance with the approved proposals. In preparing the submission, the applicant should also be advised on the following points:

- (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (b) the location of where the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated on the layout plans; and
- (ii) detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;
- (f) to note the comments of the Commissioner for Transport that there was a vehicular access leading to the application site. Notwithstanding that the access was not under Transport Department's management, the applicant was advised to check the land status of the access with the lands authority. The management and maintenance requirements of the concerned accesses should also be clarified with the relevant lands and maintenance authorities accordingly; and
 - (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the site was in an area where no public sewerage connection was available. The Environmental Protection Department should be consulted regarding the sewerage treatment/disposal facilities for the proposed development.

Agenda Item 13

Section 16 Application

[Open Meeting]

A/TP/461 Columbarium in “Government, Institution or Community” zone,
Lot 1006 R.P. in D.D. 5, No. 2 Mui Shu Hang Village, Tai Po
(RNTPC Paper No. A/TP/461C)

39. The Secretary reported that Ms. Anna S.Y. Kwong and Mr. Stephen M.W. Yip had declared interests in this item as they had current business dealings with Environ Hong Kong Ltd, which was one of the consultants for the applicant. The Committee noted that both Ms. Kwong and Mr. Yip had tendered apologies for being unable to attend the meeting.

40. The Committee noted that the applicant’s representative requested on 28.10.2011 for a further deferment of the consideration of the application for another two months because Transport Department (TD)’s requirements on the traffic impact assessment (TIA) had yet to be resolved and clarified between his traffic consultants and TD.

41. The Secretary stated that the application had been deferred three times since 2010 due to the need to undertake a TIA as required by TD and to clarify some salient points in the TIA between the applicant’s consultants and TD. Endeavour had been made by the applicant each time to submit further information with a view to resolving the departmental comments on the application.

42. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. The Committee also agreed to advise the applicant that a further period of two months were allowed for preparation of the submission of further information, and since this was the fourth deferment of the application and as a total period of eight months had been allowed, this should be the last deferment and no further deferment would be granted unless under very special circumstances.

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

Agenda Item 14

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TP/509 Proposed House (New Territories Exempted House - Small House)
in “Green Belt” zone,
Government Land in D.D. 22, Ha Wun Yiu Village, Tai Po
(RNTPC Paper No. A/TP/509)

Presentation and Question Sessions

43. Ms. Jessica K.T. Lee, TP/STN, said that replacement pages 2 and 3 of Appendix IV for the Paper had been sent to Members before the meeting. She 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 (NTEH) – Small House);
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application as the proposed Small House would require slope cutting, retaining wall construction, vegetation clearance and site formation, and approval of the application would set an undesirable precedent for other similar developments;
- (d) no public comment was received during the first three weeks of the statutory publication period and no local objection/view was received by the District Officer (Tai Po); and

[Ms. Anita W.T. Ma arrived to join the meeting and Mr. Eric K.S. Hui left the meeting temporarily at this point.]

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper. The proposed Small House was not in line with the planning intention of the “Green Belt” (“GB”) zone. Nonetheless, as the site was located at the edge of the “GB” zone adjoining the “Village Type Development” (“V”) zone, it met the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ (the Interim Criteria) in that the proposed Small House footprint fell entirely within the village ‘environs’ (‘VE’) and there was a general shortage of land in meeting the demand for Small House development in the “V” zone. The proposed Small House was generally compatible with the surrounding rural environment. The Director of Agriculture, Fisheries and Conservation had no strong view on the application noting that the subject site was covered with weeds, grasses and bamboos. CTP/UD&L of PlanD raised objection to the application as the development would likely involve slope cutting, retaining wall construction, vegetation clearance and site formation works. In this connection, the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department (H(GEO) of CEDD) pointed out that he had no in-principle objection to the application but the submission of plans for site formation works to the Buildings Department was likely to be required. To address the concerns of CTP/UD&L of PlanD and H(GEO) of CEDD, the inclusion of an approval condition requiring the submission and implementation of landscape and tree preservation proposals and site formation plan was recommended. There was one similar application for Small House development to the immediate north of the application site within the same “GB” zone approved by the Committee. The current application could warrant the same consideration of the similar application which was approved. Besides, relevant government departments consulted had no adverse comment on or objection to the application and no public comment was received.

44. Members had no question on the application.

Deliberation Session

45. Noting that the application site fell entirely within the 'VE' but was zoned "GB" on the OZP and the land involved was government land, a Member asked whether there was any planning gain in approving the proposed Small House application. In response, the Secretary stated that according to the Interim Criteria, sympathetic consideration could be given to the Small House application if the site was within the 'VE' and there was inadequate land in the "V" zone to meet the Small House demand, and the development proposal did not involve felling of trees and/or slope stability problem.

46. The Chairman referred to Plan A-3 of the Paper and said that the site was currently left vacant with no significant vegetation found. In this regard, he considered that the application met the Interim Criteria and could be approved.

47. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 18.11.2015, 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 landscape and tree preservation proposals, including a site formation plan, prior to commencement of site formation works to the satisfaction of the Director of Planning or of the TPB;
- (b) 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
- (c) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB.

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

- (a) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that the applicant was required to maintain his own stormwater 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. For works to be undertaken outside the lot boundary, the applicant should consult the District Lands Officer/Tai Po and seek consent from relevant lot owners before commencement of the drainage works. Public drainage and public sewerage were available nearby. Upon completion of the drainage and sewerage connections, an on-site technical audit would be carried out by his office. The Authorized Person should submit the application for technical audit (Form HBP1), the approved drainage and sewerage plans and the technical audit fee to his office at least two weeks before the technical audit. Form HBP1 could be downloaded from DSD's website at <http://www.dsd.gov.hk>. Otherwise, the applicant might consider providing septic tank. Environmental Protection Department should be consulted regarding the sewage treatment/disposal aspects of the development and the provision of septic tank;
- (b) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that for provision of water supply to the development, the applicant might need to extend his inside services to the nearest suitable government water mains for connection. The applicant should also resolve any land matters associated with the provision of water supply and be responsible for construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (c) to note the comments of the Director of Agriculture, Fisheries and Conservation that the applicant should avoid the impact on the semi-mature Longan tree to the east of the application site;

- (d) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal application referred by Lands Department;
- (e) to note the comments of the Antiquities and Monuments Office, Leisure and Cultural Services Department that the applicant was required to notify his office two weeks prior to the commencement of construction works so as to facilitate his staff to conduct site inspection in the course of excavation;
- (f) to note the comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department that based on the information provided, the site did not satisfy the criteria for exemption from site formation works as stipulated in PNAP APP 56. The applicant should submit the prescribed plans for site formation works to the Buildings Department in accordance with the provision of the Buildings Ordinance; and
- (g) to note the comments of the Director of Electrical and Mechanical Services that the applicant should approach the electricity supplier for the requisition of cable plans to find out whether there was any underground cable (and/or overhead line) within or in the vicinity of the application site. Based on the cable plans obtained, if there was underground cable (and/or overhead line) within or in the vicinity of the application site, the applicant should carry out the following measures :
 - (i) for application site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV and above as stipulated in the Hong Kong Planning Standards and Guidelines published by the Planning Department, prior consultation and arrangement with the electricity supplier was necessary;
 - (ii) prior to establishing any structure within the application site, the applicant and/or his contractors should liaise with the electricity

supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure; and

- (iii) the ‘Code of Practice on Working near Electricity Supply Lines’ established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.

[The Chairman thanked Ms. Doris S.Y. Ting, STP/STN, and Ms. Jessica K.T. Lee, TP/STN, for their attendance to answer Members’ enquires. Ms. Ting and Ms. Lee left the meeting at this point.]

Tuen Mun and Yuen Long District

[Mr. C.C. Lau, Mr. Vincent T.K. Lai, Mr. Ernest C.M. Fung 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 Items 15 and 16

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

A/TM/416 Proposed House
 in “Green Belt” zone and an area shown as ‘Road’,
 No. 432 Castle Peak Road, Tuen Mun (Lots 975 and 976RP in D.D. 131)
 (RNTPC Paper No. A/TM/416)

A/TM/417 Proposed House
in “Green Belt” zone and an area shown as ‘Road’,
No. 430 Castle Peak Road, Tuen Mun (Ping Shan Inland Lot 6)
(RNTPC Paper No. A/TM/417)

49. Noting that the two applications were submitted by the same applicant, were similar in nature and the application sites were located in close proximity to each other, Members agreed that they could be considered together.

50. The Secretary reported that Dr. James C.W. Lau had declared an interest in these two items as he had current business dealings with C.M. Wong & Associates Ltd, which was one of the consultants for the applications. Ms. Anna S.Y. Kwong had also declared an interest in these two items as she had current business dealings with Vision Planning Consultants Ltd, which was one of the consultants for the applications. The Committee noted that both Dr. Lau and Ms. Kwong had tendered apologies for being unable to attend the meeting.

Presentation and Question Sessions

51. Mr. C.C. Lau, STP/TMYL, said that replacement pages 20 and 21 of the Paper for Application No. A/TM/417 were tabled at the meeting for Members’ reference. He then presented the applications with the aid of a powerpoint and covered the following aspects as detailed in the Papers :

- (a) background to the applications;
- (b) the proposed house at each of the application site;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the applications;

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

Application No. A/TM/416

- (d) ten public comments from a Tuen Mun District Council (TMDC) member, Harriman Property Management Ltd (HPML) and eight individuals were received during the first three weeks of the statutory publication period, which ended on 29.4.2011. The TMDC member objected to the application mainly on the grounds of land use incompatibility and the possible danger caused by vehicles running in and out of the site. The public comment from HPML and from seven individuals had no objection to the application mainly on the grounds that the site had been left vacant for years and had become a hot spot for illegal activities, house development was compatible to the surrounding area and could improve the overall environment of the area, and similar application had been approved in the vicinity. One public comment from an individual was in support of the application as it could provide a variety of development amongst high-rise developments nearby and could help raise the overall property value of Tuen Mun District. During the first three weeks of the second statutory public inspection period, which ended on 16.9.2011, 11 public comments from Designing Hong Kong Ltd (DHKL), Janeworth Company Ltd (JCL), HPML and the same eight individuals were received. DHKL objected to the application as the proposed development was incompatible with the “Green Belt” (“GB”) zone, there was no sustainable layout in the application to ensure the health and well-being of the residents, the proposed development would cause the living environment in the area to deteriorate and lead to despoliation of land, illegal occupation of government land, illegal and unsafe parking. Seven out of the 11 commenters, including HPML, JCL and five individuals, supported the application for reasons that the site had been left vacant for years and had become a hot spot for illegal activities, the development would bring an improvement to the overall environment and address the security problems in the district. Three public comments from individuals indicated no objection to the application based on reasons that the proposal was similar to a scheme previously approved by the TPB (Application No. A/TM/370) and the applicant had made submissions to meet various departmental comments, and the proposal was only a redevelopment of a house

previously erected on the site. During the first three weeks of the third statutory public inspection period, which ended on 1.11.2011, ten public comments from HPML, JCL and the same eight individuals were received. All the commenters had either no objection to or were in support of the application based on the grounds that the development would not generate adverse visual and landscape impacts, the development intensity was low and the development rights under the lease should be respected;

Application No. A/TM/417

- (e) ten public comments from a TMDC member, HPML and eight individuals were received during the first three weeks of the statutory publication period, which ended on 29.4.2011. The TMDC member objected to the application mainly on the grounds of land use incompatibility and the possible danger caused by vehicles running in and out of the site. The public comment from HPML and from seven individuals had no objection to the application mainly on the grounds that the site had been left vacant for years and had become a hot spot for illegal activities, house development was compatible with the surrounding area and could improve the overall environment of the area, and similar application had been approved in the vicinity. The other public comment from an individual was in support of the application as it could provide a variety of development amongst high-rise developments nearby and could help raise the overall property value of Tuen Mun District. During the first three weeks of the second statutory public inspection period, which ended on 16.9.2011, ten public comments were received from HPML, JCL and the same eight individuals. While seven out of the ten commenters, including HPML, JCL and five individuals, supported the application based on the same reasons that they had submitted earlier, the other three public comments from individuals indicated no objection to the application based on the same reasons that they had submitted earlier. During the first three weeks of the third statutory public inspection period, which ended on 1.11.2011, 11 public comments from Designing Hong Kong Ltd (DHKL), HPML, JCL and the same eight individuals were received. DHKL objected to the application as over 50% of the application site was zoned

“GB”, there was no sustainable layout in the application to ensure the health and well-being of the residents, the proposed development would cause the living environment in the area to deteriorate and lead to despoliation of land, illegal occupation of government land, illegal and unsafe parking. The other ten commenters either had no objection to or were in support of the application based on the grounds that the development would not generate adverse visual and landscape impacts, the development intensity was low and the development rights under the lease should be respected; and

- (f) the Planning Department (PlanD)’s views – PlanD had no objection to the applications based on the assessment made in paragraph 11 of the Papers which were summarised below :
 - (i) the proposed house at each of the application site in general complied with the TPB Guidelines No. 10 in that it was a redevelopment proposal on a site with building entitlement. The scale and intensity of the proposed development were compatible with the character of the surrounding areas;
 - (ii) the proposed house (excluding E&M floor below ground level) at each of the application site was on a higher platform to the adjacent Castle Peak Road. The proposed houses would be partially screened by the vegetation along Castle Peak Road to the west of the sites. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L) of PlanD indicated that the development proposals were not incompatible with its urban fringe setting. Nevertheless, to address CTP/UD&L of PlanD’s concern about the potential visual impact arising from the proposed fence wall, an approval condition requiring the submission and implementation of landscape proposals by the applicants was recommended;
 - (iii) the proposed low-density single house development at each of the site was not expected to overstrain the capacity of the existing and

planned infrastructure in the general area. The proposed vehicular access road and parking provision were also considered appropriate to the scale of the development. In this regard, the proposed developments were unlikely to cause any adverse impacts on the surrounding area and concerned government departments had no objection to the applications;

- (iv) the submitted Geotechnical Planning Review Report (GPRR) indicated that the proposed developments were geotechnically feasible and the applicants would undertake a natural terrain hazard study at the detailed design stage and to carry out any mitigating measures found necessary. In this connection, the Head of Geotechnical Engineering Office of Civil Engineering and Development Department had no objection to the applications. Besides, the Commissioner for Transport had also no objection to the proposed access arrangement to the sites from Castle Peak Road;
- (v) the two sites were involved in a previous application (No. A/TM/263) covering a larger site which was approved by the Committee on 16.6.2000 for proposed redevelopment of existing houses to four 3-storey houses above a single building platform at a plot ratio of 0.4. A similar application (No. A/TM/370) to the north of the site was approved by the Committee on 15.8.2008. There was no material change in planning circumstances or change in the land use of the surrounding areas since the previous and similar approvals were granted;
- (vi) two public comments objecting to both applications mainly on concerns on the deterioration of the “GB” zone as well as traffic and road safety grounds had been received during the statutory publication periods. The rest of the 29 public comments on both applications either supported or had no objection to the application. Regarding the objections, it should be noted that the applications were for redevelopment within private land in “GB” zone, landscape

proposal was proposed to mitigate any possible adverse impacts and the relevant departments consulted had no adverse comments on the applications.

52. By referring to paragraph 11.6 of the Papers which stated that the proposed house at each of the application site was intended for a population of six persons, a Member enquired about the implications on the infrastructure capacity if the houses upon redevelopment were to be sold separately, noting that both applications were submitted by the same company. The Member was concerned whether this would cause an increase in the design population and whether the change in design population would affect PlanD's assessment on the two applications.

53. In response, Mr. C.C. Lau explained that the planning assessment was made on the assumption that the sites were to be redeveloped into two houses each at a plot ratio of 0.4. Given the small size of the sites and the low development intensity proposed for the house at each of the site, it was unlikely that there would be any significant implication on the infrastructure capacity if the design population for the two houses were eventually increased.

54. Noting that the two applications were for redevelopment of existing houses at the site, a Member asked why the redevelopment schemes would result in the felling of a number of existing trees within the site. As the sites were zoned "GB" on the OZP, that Member enquired whether the applications should be approved as there was a general presumption against development in the "GB" zone.

55. Mr. C.C. Lau said that although the sites were zoned "GB", the application sites consisted of mainly building lots. The two applications were redevelopment proposals on sites with building entitlement. The trees to be felled were located at the fringe of the application sites. As the two sites had been involved in a number of previous planning applications since the 1990s, the trees to be affected by the redevelopment schemes were likely trees that grew when the houses were abandoned. Nevertheless, to compensate for the loss of the existing trees within the site, the applicant had proposed to replant new trees at the sites so as to minimize the impact on the existing vegetation and the local visual amenity. Besides, an approval condition on the submission and implementation of landscape proposals was recommended for each of the application. In this regard, Mr. Lau said that sympathetic

consideration to the applications might be given by the Committee given its special background and the fact that concerned government departments had in general no comment on or objection to the redevelopment proposals.

Deliberation Session

56. A Member considered that the applications could be supported as there were planning merits in each of the application and the applicant had tried to retain a number of the mature trees within the sites. This view was generally shared by other Members.

57. After further deliberation, the Committee decided to approve the applications, on the terms of the applications as submitted to the Town Planning Board (TPB). Each permission should be valid until 18.11.2015, 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. Each permission was subject to the following conditions :

Application No. A/TM/416

- (a) the submission and implementation of tree preservation and landscape proposals to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission of a natural terrain hazard study before building plan submission and the implementation of any necessary mitigation measures to the satisfaction of the Director of Civil Engineering and Development or of the TPB;
- (c) the submission and implementation of fire-fighting and fire service installations and emergency vehicular access to the satisfaction of the Director of Fire Services or of the TPB; and
- (d) the design and provision of parking facilities, design and construction of road junction improvement works off Castle Peak Road for the proposed development to the satisfaction of the Commissioner for Transport or of the TPB.

Application No. A/TM/417

- (a) the submission and implementation of tree preservation and landscape proposals to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission of a natural terrain hazard study before building plan submission and the implementation of any necessary mitigation measures to the satisfaction of the Director of Civil Engineering and Development or of the TPB;
- (c) the submission and implementation of fire-fighting and fire service installations and emergency vehicular access to the satisfaction of the Director of Fire Services or of the TPB; and
- (d) the design and provision of parking facilities and right of way for the proposed development to the satisfaction of the Commissioner for Transport or of the TPB.

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

Application No. A/TM/416

- (a) to note the comments of the District Lands Officer/Tuen Mun as follows:
 - (i) the change in design of the proposed E&M building block, which was now being attached to the residential house, according to the applicant's response, was noted. It appeared that the height of the building including the E&M building block would exceed the 25 feet and site coverage limit of the existing lease. Furthermore, the filtration plant room, sewage treatment plant room, water heater booster pump room and sprinkler pump and tank room were site coverage countable if they were above the ground level. Details of the development design, including but not limited to the number of residential building, building height and site coverage would be examined during the general building plan stage. The applicant would need to apply to Lands Department (LandsD) for a lease

modification for the proposed development. There was no guarantee that the application for lease modification, if received by LandsD, would be approved. The lease modification application would be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application was approved, it would be subject to such terms and conditions as the Government should deem fit to do so, including among others, charging of premium and fees as might be imposed by LandsD;

- (ii) the applicant should be reminded that it was his responsibility to make his own arrangement for the access road over other private lot. Associated slope works and all the compensatory planting works should be carried out within private land only; and
 - (iii) to apply to the LandsD for a right of way over the concerned portion of government land for junction improvement works proposed and future access. There was no guarantee that the application for such a right of way, if received by LandsD, would be approved. The application would be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application was approved, it would be subject to such terms and conditions as the Government should deem fit to do so, including, among others, that the applicant should uphold, maintain and repair the concerned government land affected by their works and used by them for access;
- (b) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that if the site did not abut a specified street of width not less than 4.5m, the development intensity should be determined by the Building Authority under Buildings (Planning) Regulation (B(P)R) 19(3). The applicant's attention was drawn to B(P)R 41D regarding the provisions of emergency vehicular access (EVA) to the proposed development. Formal submission of any proposed new building works for approval under the Buildings Ordinance was required;

- (c) should the application be approved, the applicant should also be advised that the approval of the application did not imply that the gross floor area exemption and/or bonus plot ratio included in the application would be granted by the Building Authority. The applicant should approach BD direct to obtain the necessary approval. Deviation of the future building plan proposal including plot ratio and other development parameters from the current proposal might require a section 16A application for minor amendment to approved application, or a fresh planning application, taking reference of the TPB Guidelines No. 36A regarding Class A and Class B Amendments to Approved Development Proposals;
- (d) to note the comments of the Director of Fire Services that water supplies for fire-fighting and fire service installations should be provided to his satisfaction. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority. The EVA provision should comply with the standard as stipulated in Part VI of the Code of Practice for Means of Access for Firefighting and Rescue under B(P)R 41D;
- (e) to note the comments of the Director of Environmental Protection that the applicant should follow the relevant pollution control ordinances including the Water Pollution Control Ordinance in implementing the proposal;
- (f) to note the comments of the Commissioner for Transport as follows:
 - (i) the applicant should be responsible to ensure the access road leading to the site were satisfactory and should be responsible for carrying out the proposed junction improvement work at his own cost;
 - (ii) the applicant should identify the ownership of the existing access road leading to the application site and sort out the associated land issues;

- (iii) the applicant should identify the future management and maintenance responsibilities of the existing access road. Transport Department (TD) would not take up the management role of the access road in concern; and
- (iv) while the existing access road was not a public road being managed by TD, the management and maintenance authorities would be required to confirm whether this existing access road and the associated slopes were suitable/adequate to serve the development or upgrading works;
- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that the applicant should be responsible for his access arrangement. A slope of number 6SQW-A/C6 being maintained by HyD was located at the west of the subject lots, the applicant should be reminded to take due care to the slope during the development of the site. In case the slope was disturbed by the development in any way, the lot owner should reinstate any damage to the slope due to the development at his own cost to the HyD's satisfaction;
- (h) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that the applicant should arrange his own stormwater disposal facilities to cater for rain water falling on or flowing to his site to the DSD's satisfaction;
- (i) to note the comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department that some of the slopes that affected or would be affected by the proposed development were under the maintenance of government departments. The applicant was advised that lead time should be allowed in his master programme for liaison with the government departments regarding the slope upgrading works of the government slopes, if any; and
- (j) to liaise with the residents of adjacent residential developments to provide

them with relevant information of the proposed development to address their concerns, if any.

Application No. A/TM/417

- (a) to note the comments of the District Lands Officer/Tuen Mun as follows:
 - (i) details of the development, including but not limited to building height would be examined at the general building plan stage;
 - (ii) if the proposed development in the subsequent general building plan submissions was not in compliance with the existing lease conditions, the applicant would need to apply to Lands Department (LandsD) for a lease modification for the above proposal. The proposal would only be considered upon receipt of formal application from the applicant. There was no guarantee that the application for lease modification, if received by LandsD, would be approved. The lease modification application would be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application was approved, it would be subject to such terms and conditions as the Government should deem fit to do so, including, among others, charging of premium and fees;
 - (iii) according to the lease conditions, the lot owner was not permitted to remove any trees growing on the lot. The proposed felling of trees within the captioned lot contravened the existing lease conditions. It was noted that the applicant proposed to submit a technical lease modification to implement the tree preservation and landscaping proposals. There was no guarantee that an application for lease modification, if received by LandsD, would be regarded as a technical lease modification or would be approved. The lease modification application would be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application was approved, it would be subject to such terms and conditions as the Government should deem fit to do so, including,

among others, charging of premium and fees as might be imposed by LandsD;

- (iv) to apply to LandsD for a lease modification for the vehicular access proposal. The applicant was also required to consult relevant government departments on the maintenance responsibility of the improved access road. No works on government land that was outside the Right of Way was permitted without prior written approval from the relevant government department. There was no guarantee that the application for lease modification, if received by him, would be approved and he reserved his comment on such. The application would be considered by him acting in the capacity as the landlord at its sole discretion. In the event that the application was approved, it would be subject to such terms and conditions as the Government should deem fit to do so, including, among others, charging the payment of premium and fees; and
 - (v) unless Highways Department and Transport Department agreed to take up the access road upon such improvement work to their satisfaction, the applicant should be responsible for the maintenance and repair of the improved access road;
- (b) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) as follows:
- (i) that if the site did not abut a specified street of width not less than 4.5m, the development intensity should be determined by the Building Authority under Buildings (Planning) Regulation (B(P)R) 19(3). The applicant's attention was drawn to B(P)R 41D regarding the provisions of emergency vehicular access (EVA) to the proposed development. Formal submission of any proposed new building works for approval under the Buildings Ordinance was required;
 - (ii) Quality Built Environment (QBE) requirements and the prerequisite

under PNAP APP-151 and APP-152 for gross floor area (GFA) concession would be applicable to the subject house development if the first re-submission of the building plans made after 1.4.2011 was disapproved or the resubmission made after 1.4.2011 constituted “major revision”. Under the QBE requirements, the carpark floor, the non-mandatory or non-essential plant rooms of the house development might be exempted from GFA calculation subject to the compliance with the above PNAPs. Also, the filtration plant room at carpark floor for single family house development would be accountable for GFA under B(P)R 23(3)(a); and

- (iii) as regards the concessionary GFA, it would be considered in detail at building plan submission stage. Apparently, the size of the filtration plant room and the water heater booster pump room was too excessive;
- (c) should the application be approved, the applicant should also be advised that the approval of the application did not imply that the gross floor area exemption and/or bonus plot ratio included in the application would be granted by the Building Authority. The applicant should approach BD direct to obtain the necessary approval. Deviation of the future building plan proposal including plot ratio and other development parameters from the current proposal might require a section 16A application for minor amendment to approved application, or a fresh planning application, taking reference of the TPB Guidelines No. 36A regarding Class A and Class B Amendments to Approved Development Proposals;
- (d) to note the comments of the Director of Fire Services that water supplies for fire-fighting and fire service installations should be provided to his satisfaction. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority. The EVA provision should comply with the standard as stipulated in Part VI of the Code of Practice for Means of Access for Firefighting and Rescue under B(P)R 41D;

- (e) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that the lot owner should maintain the section of the road off Castle Peak Road – Castle Peak Bay to the application site to the satisfaction of WSD;
- (f) to note the comments of the Director of Environmental Protection that the applicant should follow the relevant pollution control ordinances including the Water Pollution Control Ordinance in implementing the proposal;
- (g) to note the comments of the Commissioner for Transport that the applicant should be responsible to ensure the access road leading to the site was satisfactory;
- (h) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that the applicant should be responsible for his own access arrangement. Two slopes of number 6SW-A/C6 and 6SW-A/C37 being maintained by HyD were at close proximity to the subject lot, the applicant should be reminded to take due care to the slopes during the development of the site. In case the slopes were disturbed by the development in any way, the lot owner should reinstate any damage to the slopes due to the development at his own cost to the satisfaction of his department;
- (i) to note the comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department that some of the slopes that affected or would be affected by the proposed development were under the maintenance of government departments. In this respect, the applicant was advised that lead time should be allowed in his master programme for liaison with the government departments regarding the slope upgrading works of the government slopes, if any; and
- (j) to liaise with the residents of adjacent residential developments to provide them with relevant information of the proposed development to address

their concerns, if any.

Agenda Item 17

Section 16 Application

[Open Meeting]

A/TM/424

Proposed Office

in “Industrial” zone,

No. 3 San Hop Lane, Tuen Mun (Portion of Castle Peak Town Lot 23)

(RNTPC Paper No. A/TM/424)

59. The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with LLA Consultancy Ltd, which was one of the consultants for the application. The Committee noted that Ms. Kwong had tendered an apology for being unable to attend the meeting.

60. The Committee noted that the applicant requested on 3.11.2011 for a deferment of the consideration of the application for two months so as to allow sufficient time to address the departmental comments on drainage and traffic issues regarding the application.

61. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further 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 18

Section 16 Application

[Open Meeting]

A/TM-SKW/73 Temporary Self-service Barbecue Area for a Period of 3 Years
in “Village Type Development” zone,
Lots 246 S.B (Part), 248 (Part), 250 (Part), 251, 258 (Part),
259, 260, 261 (Part), 262 S.B (Part), 263 S.B (Part) in D.D. 385,
Tai Lam Chung Tsuen, Tuen Mun
(RNTPC Paper No. A/TM-SKW/73)

62. The Committee noted that the applicant requested on 15.11.2011 and 17.11.2011 for a deferment of the consideration of the application for two months so as to allow more time to prepare information and clarifications in response to comments from government departments concerned.

63. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further 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.

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

Agenda Item 19

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/348 Filling of Land for Permitted Plant Nursery and Ancillary Track for Agricultural Vehicles in “Green Belt” zone,
Lots 1454RP(part), 1457(part), 1458(part), 1461(part), 1462(part), 1569(part), 1592(part), 1593, 1594, 1595(part), 1596(part), 1598(part), 1599(part), 1600(part), 1602(part), 1603(part), 1604(part), 1605(part), 1610(part), 1611(part), 1612(part), 1615RP(part), 1616RP(part), 1617(part), 1618(part), 1619(part), 1620(part), 1623(part), 1624, 1625, 1626RP(part), 1627(part), 1628(part) and 1642(part) in D.D.124, Hung Shui Kiu, Tin Sam, Yuen Long
(RNTPC Paper No. A/YL-PS/348A)

Presentation and Question Sessions

64. Mr. Vincent T.K. Lai, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the filling of land for permitted plant nursery and ancillary track for agricultural vehicles;
- (c) departmental comments – the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) commented that since the size of the site was substantial, a drainage impact assessment (DIA) was necessary to demonstrate that the proposed development would not have any adverse impact on the site and its adjacent area. The Commissioner for Transport (C for T) noted that there should be around 8,000m³ of soil to be filled and the soil was likely not arable soil but soil/general fill for site formation. He also casted doubt on the estimate provided by the applicant that only 2

pcu/day would be generated in each direction and that the entire filling activity would only be carried out for one hour each day and the activity would only last for three days;

- (d) five public comments from a Yuen Long District Council member, the Hong Kong Bird Watching Society, the Conservancy Association, Designing Hong Kong Ltd and an individual were received against the application during the first three weeks of the statutory publication period. All the commenters objected to the application mainly on the grounds of excessive extent of filling, adverse drainage and landscape impacts, and degradation of the function and value of the “Green Belt” (“GB”) zone; 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. Although agricultural use in the “GB” zone was always permitted, land filling at the site required planning permission from the TPB. There was a general presumption against development within the “GB” zone under the TPB Guidelines No.10. The application was to fill the site with arable soil for plant nursery use and ancillary vehicle track. The site and its surroundings were agricultural land under active cultivation in May 2010 but land filling had occurred subsequently. According to the Director of Environmental Protection (DEP), three environmental complaints about land filling were received in 2010. In the absence of any prior planning approval, the land filling on site was clearly a ‘destroy first’ action. Moreover, as advised by the Chief Town Planner/Urban Design and Landscape of PlanD, the site had already been filled with decomposed granite which was not a suitable planting medium. The applicant indicated that the proposed filling would be carried out over the existing level which implied that the original fill materials would not be removed prior to the proposed filling. The present application was therefore seeking an ‘after-approval’ to redress a previous wrongful act. In view of the substantial size of the site, CE/MN of DSD considered that DIA was necessary and the proposed works would affect the existing village drains. However, no DIA was submitted. In addition, C for T had doubt on the

trip generation as quoted in the submission that only 2pcu/day would be generated in each direction and the whole filling activity would only last for three days. Given that the applicant had failed to demonstrate that the proposed development would not pose any adverse impacts on the surrounding area, the proposed development was considered not in line with the TPB Guidelines No. 10. There was no similar application for land filling approved by the TPB within the “GB” zones on the Ping Shan OZP. In this regard, approval of the application would set an undesirable precedent effect for other similar land filling activities in the area and could also be misread by the public as acquittal of the ‘destroy first’ actions. There were five adverse public comments received against the application, mainly on the grounds of excessive extent of filling, adverse drainage and landscape impacts, and degradation of the function and value of the “GB” zone.

65. A Member noted that the subject application was a ‘destroy first’ action and the site was currently subject to planning enforcement action by the Planning Authority. Noting that both Enforcement Notice and Reinstatement Notice had been issued to concerned parties but the requirements of the Reinstatement Notice had not yet been complied with, that Member was of the view that due effort should be taken by the Planning Authority to stop this kind of ‘destroy first’ action. He enquired whether prosecution action had already been taken by the Planning Authority.

66. In response, Mr. Vincent T.K. Lai said that according to the latest information from the Central Enforcement and Prosecution Section (CEPS) of PlanD, prosecution action against the subject site was in progress.

67. In response to the enquiries of the Chairman and another Member, Mr. Vincent T.K. Lai said that the site and its surrounding area were agricultural land under active cultivation in May 2010. Once it was learnt that illegal land filling activity had taken place within the site in January 2011, the Planning Authority had taken prompt action to stop the destruction to the environment by issuing Enforcement Notice and Reinstatement Notice to the concerned parties. As no action had been taken by the concerned parties to reinstate the site, the Planning Authority was now gathering evidence and preparing for prosecution action

to be taken.

Deliberation Session

68. In response to a Member's question, the Secretary said that action had been taken by the Planning Authority to take enforcement action against the illegal land filling at the site under the provisions of the Town Planning Ordinance. As soon as the unauthorized development, i.e. illegal filling of land, was brought to PlanD's attention, the Planning Authority served the Enforcement Notice to the concerned parties requiring the discontinuance of the authorized development and subsequently the Reinstatement Notice requiring the parties concerned to reinstate the site by removal of the leftovers, debris and fill materials on the land and grassing the land. As the requirements of the Reinstatement Notice had not been complied with upon the expiry of the compliance period, prosecution action against the notice recipients was in progress.

69. In response to the enquiry of the same Member, the Secretary explained that it was stipulated in the Town Planning Ordinance that any non-compliance of the notice served by the Planning Authority would be subject to prosecution. In this regard, prosecution action could commence either upon the expiry of the Enforcement Notice or the Reinstatement Notice.

70. A Member remarked that the site was agricultural land and, according to the applicant, the filling of land was for permitted plant nursery activity. In this regard, that Member enquired why planning permission was required for the filling of land.

71. In response, the Secretary said that the Planning Authority needed to investigate and determine for each case whether the land filling activity under concern was genuine agricultural activity which would be always permitted on agricultural land or general site formation works which would require planning permission from the TPB. For the subject application, it could be clearly seen from the aerial photos taken in 2010 and 2011 that the land filling activity was in fact site formation works rather than land filling for agricultural activities. To determine whether the filling of land was for agricultural purpose would very often require professional judgement and input from the expertise departments such as the Agriculture, Fisheries and Conservation Department.

72. As Members had grave concern about the case, the Secretary undertook to report the latest progress of the prosecution action taken by the Planning Authority against the site at the next meeting.

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

73. After further deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the application which sought to redress a previous action that significantly affected the original rural landscape and might have adversely affected drainage or aggravated flooding in the area was against the spirit of the Town Planning Board Guidelines No. 10. The applicant failed to demonstrate that the proposed development would not pose adverse environmental, drainage and traffic impacts on the surrounding areas; and
- (b) approval of the application would set an undesirable precedent for other similar development in the “Green Belt” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area and could be seen as acquittal of such ‘destroy first’ actions.

Agenda Item 20

Section 16 Application

[Open Meeting]

A/YL/183 Proposed Shop and Services (Retail of Fresh Food)
in “Open Space” zone,
G/F, Lots 4582 S.A (Part) and 4583 RP (Part) in D.D. 116,
Tai Kei Leng Road, Yuen Long
(RNTPC Paper No. A/YL/183)

74. The Committee noted that the applicant requested on 31.10.2011 for a deferment of the consideration of the application for two months so as to allow time for preparation of further information to address the public comments and departmental comments.

75. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further 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 21

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-LFS/228 Proposed Temporary Open Storage of Construction Materials
for a Period of 3 Years
in “Residential (Group E)” and “Green Belt” zones,
Lots No. 1694, 1696, 1697, 1698, 1700 and 1701 in D.D.129,
Lau Fau Shan, Yuen Long
(RNTPC Paper No. A/YL-LFS/228)

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the proposed temporary open storage of construction materials for a period of three years;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive uses along the access road (Deep Bay Road) and environmental nuisance was expected. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application as the applied use was incompatible with the planned uses of the “Residential (Group E)” (“R(E)”) zone, and the existing landscape character of the “Green Belt” (“GB”) zone. Approval of the application would set an undesirable precedent for other similar applications. The Commissioner for Transport (C for T) commented that vehicles longer than 10m were prohibited to use the northern section of Deep Bay Road from its junction with Lau Fau Shan Road and approving the application would induce cumulative adverse traffic impact on the nearby road network;
- (d) nine public comments from a Yuen Long District Council member and eight groups/individuals of local residents against the application were received during the first three weeks of the statutory publication period. All the commenters objected to the application mainly on the grounds of environmental pollution, air, noise and dust nuisance/impacts, land/water contamination, fire risks, visual intrusion, traffic impacts, and adverse drainage impacts/flooding risks; 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, which were summarized as follows:
 - (i) the site fell mainly within Category 2 areas where planning permission could be granted on a temporary basis up to a maximum period of three years subject to no adverse departmental comments and local objections, and partly within Category 4 areas where applications would normally be rejected except under exceptional circumstances under the TPB Guidelines No. 13E;

- (ii) as the majority of the site was zoned “R(E)”, the introduction of further open storage use into this zone, even on a temporary basis, would defeat the purpose of the “R(E)” zone which was to phase out the existing industrial uses through redevelopment for residential use. With respect to the remaining portion of the site which was mainly densely vegetated areas and zoned “GB”, the applied use was not in line with its planning intention and no approval for temporary open storage and port backup uses had ever been granted by the TPB/Committee, except for a barren cut slope at the western edge of the subject “GB” zone (under Application No. A/YL-LFS/61). In this regard, CTP/UD&L of PlanD was concerned about the undesirable precedent effect of approving the application;

- (iii) according to the TPB Guidelines No.10, there was a general presumption against development in the “GB” zone. The applicant had not demonstrated why suitable site could not be identified in the “Open Storage” zones on the adjoining Ha Tsuen OZP, and had not given any strong planning justification in the submission for open storage use in the “GB” zone. CTP/UD&L of PlanD objected to the application on the grounds that the proposed development was incompatible with the planned uses of the “R(E)” zone, and the existing landscape character of the “GB” zone. CE/MN of DSD also required the submission of a drainage proposal for the development;

- (iv) the application did not meet the TPB Guidelines No. 13E in that there were adverse departmental comments on the environmental, traffic and landscape aspects, and the applicant had not submitted any relevant technical proposals to address the adverse comments from concerned government departments and demonstrate that the applied use would not have adverse impacts on the surrounding areas;

- (v) the site was accessed via a local track to Deep Bay Road and

vehicles longer than 10m were prohibited from using the section north of the Lau Fau Shan roundabout. C for T was concerned about the cumulative adverse traffic impact of approving such similar applications. DEP also did not support the application as there were sensitive uses along Deep Bay Road and environmental nuisance was expected;

- (vi) the Committee had rejected all three previous applications No. A/YL-LFS/32, 33 and 87 at the site and rejected three similar applications No. A/YL-LFS/169, 182 and 190 for new temporary open storage developments within the same “R(E)” zone, and two similar applications No. A/YL-LFS/200 and 227 within the same “GB” zone on the Lau Fau Shan and Tsim Bei Tsui OZP. Rejection of the application was in line with the Committee’s previous decisions; and
- (vii) there were nine public comments on the application. All the commenters objected to the application mainly on the grounds of environmental pollution, air, noise and dust nuisance/impacts, land/water contamination, fire risks, visual intrusion, traffic impacts, and adverse drainage impacts/flooding risks.

77. Members had no question on the application.

Deliberation Session

78. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development would defeat the planning intention of the “Residential (Group E)” zone which was primarily for the phasing out of existing industrial uses through redevelopment for residential use on application to the Town Planning Board;

- (b) the development was not in line with the planning intention of the “Green Belt” zone, 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 no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
- (c) the development was not compatible with the existing rural neighbourhood and landscape character; and
- (d) the development was not in line with the Town Planning Board Guidelines No. 13E for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ in that there were adverse departmental comments on the environmental, traffic and landscape aspects and the development would have adverse environmental, traffic and landscape impacts on the surrounding areas.

Agenda Item 22

Section 16 Application

[Open Meeting]

A/YL-KTS/550

Proposed Houses

in “Residential (Group D)” zone,

Lots 634 and 649 in D.D. 106 and Adjoining Government Land,

Kam Sheung Road, Pat Heung, Yuen Long

(RNTPC Paper No. A/YL-KTS/550)

79. The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with BMT Asia Pacific Ltd, which was one of the consultants for the application. The Committee noted that Ms. Kwong had tendered an apology for being unable to attend the meeting.

80. The Committee noted that the applicant requested on 3.11.2011 for a deferment of the consideration of the application for two months in order to allow more time for the applicant to address the comments of relevant government departments and the public.

81. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further 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.

[Dr. W.K. Yau and Mr. Eric K.S. Hui left the meeting temporarily at this point.]

Agenda Item 23

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/624 Temporary Open Storage of Recyclable Office Equipment
with Ancillary Workshop for a Period of 3 Years
in “Village Type Development” and “Agriculture” zones,
Lot 2616 (Part) in D.D. 111, Wang Toi Shan, Pat Heung, Yuen Long
(RNTPC Paper No. A/YL-PH/624)

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 open storage of recyclable office equipment with ancillary workshop for a period of three years;

- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as the development was not compatible with the surrounding land uses and might pose threats to the landscape quality of the stream in its vicinity. The Director of Environmental Protection (DEP) did not support the application as there were residential dwellings in the vicinity of the site and environmental nuisance was expected. The Director of Agriculture, Fisheries and Conservation (DAFC) objected to the application as the site had high potential for agricultural rehabilitation;
- (d) no public comment was received during the first three weeks of the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 12 of the Paper. The site fell partly within Category 3 areas where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals, and partly within Category 4 areas where applications would normally be rejected under the TPB Guidelines No. 13E. Although there was no Small House application received by the District Lands Officer/Yuen Long in respect of the site, the development was not in line with the planning intention of the “Village Type Development” zone. It was also not in line with the planning intention of the “Agriculture” zone and DAFC did not support the application. Approval of the application would frustrate the planning intentions of the zones and there was no strong planning justification given in the submission for a departure from the planning intentions, even on a temporary basis. The development did not comply with the TPB Guidelines No. 13E in that there were no exceptional circumstances that warranted sympathetic consideration and the applied use was not the subject of any previous planning approval and there were adverse departmental comments against the application. The previous Application No. A/YL-PH/587 submitted by the same applicant for the

same use was rejected by the Committee on 21.8.2009 and there was no major change in planning circumstances that warranted a departure from the Committee's previous decision. Besides, DEP did not support the application as there were sensitive uses in the vicinity of the site and environmental nuisance was expected. Moreover, the development was not desirable from the landscape planning point of view as the site was in close proximity to the existing village houses and a natural stream. No technical assessment had been submitted to demonstrate that the applied use would not pose any adverse impact on the surrounding environment. Approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the zones. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

83. Members had no question on the application.

Deliberation Session

84. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the development was not in line with the planning intention of the "Village Type Development" zone which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone was primarily intended for development of Small Houses by indigenous villagers. It was also not in line with the planning intention of the "Agriculture" zone which was to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. Approval of the application would frustrate the planning intentions of the zones and there was no strong planning justification given in the submission for a departure from the planning intentions, even on a temporary basis;

- (b) the development did not comply with the Town Planning Board Guidelines No. 13E for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ in that there were no exceptional circumstances that warranted sympathetic consideration, and the applied use was not the subject of any previous planning approval on-site and there were adverse departmental comments against the application;
- (c) there were residential dwellings in the vicinity of the site. The development would pose adverse environmental, landscape and drainage impacts to the surrounding areas, and no technical assessment had been submitted to demonstrate that the applied use would not pose any adverse impacts to the surrounding areas or to propose mitigation measures to address the potential issues; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the zones. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

Agenda Item 24

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/625

Proposed Temporary Open Storage of Used Cars for
Recycling with Ancillary Workshop for a Period of 3 Years
in “Agriculture” zone,

Lots 2813 (Part), 2878 (Part), 2879 (Part) and 2880 (Part) in D.D. 111
and Adjoining Government Land, Wang Toi Shan Wing Ning Lei,
Pat Heung, Yuen Long

(RNTPC Paper No. A/YL-PH/625)

Presentation and Question Sessions

85. 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 proposed temporary open storage of used cars for recycling with ancillary workshop for a period of three years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there was sensitive receiver in the vicinity of the site and environmental nuisance was expected. The Director of Agriculture, Fisheries and Conservation (DAFC) objected to the application as the application site had high potential for agricultural rehabilitation;
- (d) four public comments from a Yuen Long District Council member, the indigenous villagers of Wang Toi Shan, an individual and Designing Hong Kong Ltd were received during the first three weeks of the statutory publication period. All the commenters objected to the application mainly on the grounds that the development would cause adverse environmental, traffic and social impacts on the surrounding area or nearby residents/villages; 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 site fell within Category 3 areas under the TPB Guidelines No. 13E where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals. The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone and DAFC did not support the application. Approval of the application would frustrate the planning intention of the zone and there was no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

Although the adjoining area of the site was intermixed with various kinds of open storage yards, most of them were suspected ‘unauthorized developments’. The proposed development did not comply with the TPB Guidelines No. 13E in that the applied use was not the subject of any previous planning approval and there were adverse departmental comments and local objections against the application. The last Application No. A/YL-PH/591 covering the same site submitted by the same applicant for similar open storage use was rejected by the Committee on 21.8.2009 and there was no major change in planning circumstances that warranted a departure from the Committee’s previous decision. Besides, DEP did not support the application as there was a residential dwelling located close to the site, and environmental nuisance was expected. The Chief Town Planner/Urban Design and Landscape of PlanD and Chief Engineer/Mainland North of Drainage Services Department had also requested the applicant to submit landscape and drainage proposals. In this regard, no submission had been made to demonstrate that the development would not generate adverse impacts on the surroundings. Although an Application No. A/YL-PH/627 for similar temporary open storage use was approved with conditions recently by the Committee on 21.10.2011, the application was the subject of previous approvals. Moreover, there was no similar application approved for open storage of recycling materials use as the current application in the subject “AGR” zone. Approval of the application would set an undesirable precedent for similar uses to proliferate into the zone. Besides, four objections from the locals/the public were received during the statutory publication period.

86. Members had no question on the application.

Deliberation Session

87. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Agriculture” zone which was to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Approval of the application would frustrate the planning intention of the zone and there was no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application did not comply with the Town Planning Board Guidelines No. 13E for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ in that the applied use was not the subject of any previous planning approval on-site, and there were adverse departmental comments and local objections against the application;
- (c) the proposed development would pose adverse environmental, landscape and drainage impacts on the surrounding areas, and no technical assessment had been submitted to demonstrate the proposed development would not pose any adverse impacts to the surrounding areas or to propose mitigation measures to address the potential issues; and
- (d) the approval of the application would set an undesirable precedent for similar uses to proliferate into the zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

Agenda Item 25

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-SK/164 Temporary Shop and Services (Real Estate Agency)
and Ancillary Office for a Period of 3 Years
in “Agriculture” and “Village Type Development” zones,
Lot 1289 RP (Part) in D.D. 114 and Adjoining Government Land,
Kam Sheung Road, Yuen Long
(RNTPC Paper No. A/YL-SK/164)

Presentation and Question Sessions

88. 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) and ancillary office for a period of three years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) seven public comments from a Yuen Long District Council member, the Indigenous Inhabitant Representatives and Resident Representative of Pat Heung Sheung Tsuen and the local villagers were received during the first three weeks of the statutory publication period. All the commenters objected to the application for reasons of erection of illegal structures, blockage of access road, hindrance to access of emergency vehicles, the spoiling of the adjacent natural knoll and ‘fung-shui’ of the area, worsening of public security, creation of illegal on-street parking and road safety problems, lack of proper sewage treatment facilities and glare pollution; and

- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under application could be tolerated for a period of three years based on the assessment made in paragraph 11 of the Paper. The development comprising a 2-storey structure within a site of about 176.3 m² was of a relatively small scale. It was located by the side of a major road and was considered compatible with the surrounding environment. Although the development was not entirely in line with the planning intentions of the “Agriculture” (“AGR”) and “Village Type Development” (“V”) zones, the Director of Agriculture, Fisheries and Conservation considered the site not having high potential for agricultural rehabilitation, and similar ‘Shop and Services’ use on the ground floor of an NTEH was always permitted within the “V” zone. According to the District Lands Officer/Yuen Long, there was no current Small House application at the site. In this respect, the approval of the application on a temporary basis would not frustrate the long-term planning intentions of the “AGR” and “V” zones. Government departments consulted generally had no adverse comment on the application. Although there were local objections against the application raising concerns on the traffic, building safety, environmental, sewerage, public security and ‘fung-shui’ impacts brought about by the development, concerned government departments consulted had no adverse comment on or objection to the application.

89. Members had no question on the application.

Deliberation Session

90. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 18.11.2014, 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 existing access track to the east of the application site should be allowed for use by the public at any time during the planning approval period;
- (c) the submission of run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the TPB by 18.5.2012;
- (d) in relation to (c) above, the provision of run-in/out within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the TPB by 18.8.2012;
- (e) the implementation of the accepted landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 18.5.2012;
- (f) 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 18.5.2012;
- (g) in relation to (f) 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 18.8.2012;
- (h) 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 18.5.2012;
- (i) in relation to (h) 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 18.8.2012;
- (j) if any of the above planning condition (a) or (b) 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;

- (k) if any of the above planning conditions (c), (d), (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; and
- (l) 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.

91. 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) of the site;
- (b) to note the comments of the District Lands Officer/Yuen Long (DLO/YL) that the lot owner and occupier of government land would need to apply to his office to permit structures to be erected or regularize any irregularities on-site. Such application would be considered by the Lands Department (LandsD) acting in the capacity as landlord at its sole discretion. If such application was approved, it would be subject to such terms and conditions, including among others the payment of premium or fee, as might be imposed by LandsD. Besides, the site was accessible via government land (GL) direct to Kam Sheung Road. His office did not provide maintenance works on this GL nor guarantee right-of-way. His office would review the stance should any objection be received during the processing of the applications for Short Term Tenancy and Short Term Waiver;
- (c) to note the comments of the Commissioner for Transport that a proper run-in/out should be provided at Kam Sheung Road. No vehicular reversing in or out from the site to Kam Sheung Road should be permitted. As there was an existing access track serving some inner lots to the east of

the site, the applicant was reminded not to block or obstruct the existing access track;

- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that the applicant should be responsible for the construction of the run-in/out at his own cost. The run-in/out at the access point should be constructed in accordance with HyD's Standard Drawings No. H1113 and H1114, or H5133, H5134 and H5135, whichever set was appropriate, to match with the existing adjacent pavement condition. Excavation Permit should be obtained from his office prior to commencement of excavation works on public road/footpath which were maintained by HyD. The applicant should ascertain that utility services at the run-in/out location could sustain the construction traffic load. The applicant should also ensure that surface water from the site would not be discharged onto public road/footpath surface through the proposed run-in/out, and should clarify this issue with details for his further comment. Moreover, HyD 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 comments of the Director of Environmental Protection that the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' should be observed to minimize any potential environmental nuisances. Should there be any effluent discharge from the site, the applicant should approach his Regional Office (North) to apply for a discharge licence so as to comply with the Water Pollution Control Ordinance;
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that catchpits should be provided at the turning points along the proposed 225mm u-channels. The proposed 225mm underground u-channel outside site boundary should be replaced by 225mm drainage pipe. The details of connection with the existing stream should be shown on the drainage proposal. Moreover, DLO/YL and the relevant lot owners should be consulted as regards all proposed drainage works

outside the site boundary or outside the applicant's jurisdiction;

- (g) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that existing water mains at the southeast corner of the site would be affected. The boundary at the southeast corner of the site also encroached upon the existing waterworks reserve. The applicant should consider adjusting the boundary of the site at this corner, otherwise he should bear the cost of any necessary diversion works affected by the development;
- (h) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposed structure, 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. The applicant should also be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority. 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;
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the unauthorized structures on-site, which were liable to action under section 24 of the Buildings Ordinance (BO), should be removed. The granting of planning approval should not be construed as condoning to any unauthorized structures existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Containers used as office, estate agency shop and ancillary covered car park were considered as temporary buildings and subject to control under Building (Planning) Regulations (B(P)R) Part VII. Formal submission of

Presentation and Question Sessions

92. 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 renewal of planning approval for temporary “camping ground for meditation use” for a period of one year;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) two public comments from the Chairman of the Pat Heung Rural Committee and a Yuen Long District Council member were received during the first three weeks of the statutory publication period. The two commenters objected to the application for reasons of adverse traffic, environmental, hygiene and psychological impacts of the development on the local villagers and on ‘fung-shui’ grounds; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use under application could be tolerated for a further period of one year based on the assessment made in paragraph 12 of the Paper. The applied temporary use did not contravene the planning intention of the “Conservation Area” zone and the development was not incompatible with the rural and tranquil character of its surrounding woodland environment. Both the Director of Agriculture, Fisheries and Conservation and Chief Town Planner/Urban Design and Landscape of PlanD had no objection to the application. The site was also at an inconspicuous location and the development would not generate significant environmental impact on the surrounding areas. Government departments consulted had no objection to the application generally. The application was in line with the TPB Guidelines No. 34B in that there had been no material change in planning

circumstances since the granting of the previous temporary approval; the conditions of the previous approval had been complied with; and the one-year approval period sought was of the same timeframe as the previous approval. Although there were local objections to the application concerning the traffic, environmental, hygienic and psychological impacts of the use on the local villagers and on 'fung-shui' grounds, relevant departments had no adverse comment on the application. Relevant approval conditions were recommended to minimize and mitigate any potential impacts on the surrounding areas.

93. Members had no question on the application.

Deliberation Session

94. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 1 year from 27.11.2011 to 26.11.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no new fixture or structure was allowed to be placed/built on the application site during the planning approval period;
- (b) no trees within the application site were allowed to be felled unless with prior approval of the Director of Planning during the planning approval period;
- (c) no open burning, as proposed by the applicant, was allowed on the application site at any time during the planning approval period;
- (d) no chemicals, including fertilizers/pesticides, were allowed to be used or stored on the application site at any time during the planning approval period;
- (e) no public announcement system, portable loudspeaker or any form of audio

amplification system, as proposed by the applicant, was allowed to be used on the application site at any time during the planning approval period;

- (f) the submission of fire service installations proposal within 3 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 26.2.2012;
- (g) in relation to (f) above, the implementation of fire service installations proposal 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 26.5.2012;
- (h) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (i) if any of the above planning conditions (f) or (g) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (j) upon 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.

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

- (a) to note the comments of the District Lands Officer/Yuen Long that the lot owner needed to apply to his office to permit any structures to be erected or regularize any irregularities on-site. Such application would be considered by the Lands Department (LandsD) acting in the capacity as landlord at its sole discretion. If such application was approved, it would be subject to such terms and conditions, including among others the payment of premium or fee, as imposed by LandsD. Besides, the site was

accessible via government land to Route Twisk. His office did not provide maintenance works on this government land nor guarantee right-of-way;

- (b) to note the comments of the Commissioner for Transport that the site was connected to public road network via a section of local access road which was not managed by Transport Department. The land status of the local access road leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that the nearby catchwater access road should not be used as vehicular access to the site. The “Conditions of Working within Water Gathering Ground” in Appendix IV of the Paper should be complied with in the course of erection of structures within the site;
- (d) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that if it was proposed to erect any temporary structures not exempted under the provisions of the Buildings Ordinance, formal building plans were to be submitted for his approval; and
- (f) to note the comments of the Director of Electrical and Mechanical Services that the applicant should approach the electricity supplier for the requisition of cable plans to find out whether there was any underground cable (and/or overhead line) within or in the vicinity of the site. For site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV and above as stipulated in the Hong Kong Planning Standards and Guidelines published by the Planning Department, prior

consultation and arrangement with the electricity supplier was necessary. Prior to establishing any structure within the site, the applicant and/or his contractors should liaise with the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure. The ‘Code of Practice on Working near Electricity Supply Lines’ established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.

Agenda Item 27

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-SK/166 Proposed 5 Houses
 (New Territories Exempted Houses - Small Houses)
 in “Agriculture” zone,
 Lots 1034 S.A, 1034 S.B, 1034 S.C, 1034 S.D and
 1034 RP in D.D. 106, Kam Tsin Wai, Pat Heung, Yuen Long
 (RNTPC Paper No. A/YL-SK/166)

Presentation and Question Sessions

96. 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 proposed five houses (New Territories Exempted Houses (NTEHs) – Small Houses);
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site was an orchard and farming activities were active in areas surrounding the site.

The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as approval of the proposed Small Houses was likely to encourage more village house developments in the subject “Agriculture” (“AGR”) zone, resulting in an extension of the village landscape character beyond the existing “Village Type Development” (“V”) zone boundary. The District Lands Officer/Yuen Long (DLO/YL) commented that as the proposed Small House sites were outside both the village ‘environs’ (‘VE’) and the “V” zone, the subject Small House applications would not be considered by his office;

- (d) three public comments were received during the first three weeks of the statutory publication period. Designing Hong Kong Ltd objected to the application on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone, and there was a lack of a sustainable village layout for the area. The other two comments from five villagers and a Yuen Long District Council member objected to the application mainly for reasons concerning the planning intention of “AGR” zone, unfairness to the indigenous villagers and ‘fung-shui’ aspect; 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 proposed development was not in line with the planning intention of the “AGR” zone and DAFC did not support the application. No strong planning justification had been given in the submission for a departure from the planning intention. The application did not meet the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ (the Interim Criteria) in that the site and the footprints of the proposed Small Houses fell wholly outside both the ‘VE’ and “V” zone and there was no shortage of land in meeting the demand for Small House development. DLO/YL also advised that the subject Small House applications would not be considered by his office. There was no strong planning justification for allowing the proposed Small Houses to be built outside the “V” zone. The applicants failed to demonstrate in the

submission why suitable sites within the “V” zone could not be made available for the proposed development. Although a similar application (No. A/YL-SK/2) for development of 14 Small Houses had been approved to the west of the site in 1995, this application was approved on sympathetic ground before the first promulgation of the Interim Criteria. After 1995, no further planning approval for Small House development had been granted in the same “AGR” zone. In this regard, the approval of the application would set an undesirable precedent for similar applications to proliferate into the “AGR” zone, causing degradation to the surrounding rural environment. Besides, there were three public objections against the application mainly on land use planning, compatibility, traffic, environmental, unfairness and ‘fung-shui’ grounds.

97. In response to the enquiry of a Member who noted that an approval was granted on a nearby site, Mr. Kepler S.Y. Yuen said that the application (No. A/YL-SK/134) was for proposed swimming pool for 36 NTEHs. The application was for a different use and was approved in 2006.

Deliberation Session

98. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone on the Outline Zoning Plan, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification given in the submission for a departure from the planning intention;
- (b) the application did not comply with the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ in that the site

and the footprints of the proposed Small Houses fell wholly outside both the village ‘environs’ of Kam Tsing Wai and the “Village Type Development” (“V”) zone. Village house development should be sited close to the village proper as far as possible to maintain an orderly development pattern, efficient use of land and provision of infrastructure and services. As there was no shortage of land in meeting the demand for Small House development in the “V” zone of Kam Tsing Wai, the applicants failed to demonstrate in the submission why suitable sites within the “V” zone could not be made available for the proposed development. There were no exceptional circumstances to justify approval of the application; and

- (c) the approval of the application would set an undesirable precedent for other similar developments to proliferate into the “AGR” zone. The cumulative effect of approving such applications would result in a degradation of the surrounding rural environment and adverse impact on the infrastructure provision of the area.

Agenda Item 28

Section 16 Application

[Open Meeting]

A/YL-TT/284

Proposed Houses

in “Residential (Group D)” zone,

Lots 4989 RP, 4990 and 4991 (Part) in D.D. 116,

Shung Ching San Tsuen, Tai Tong Road, Yuen Long

(RNTPC Paper No. A/YL-TT/284)

99. The Committee noted that the applicant’s representative requested on 11.11.2011 for a deferment of the consideration of the application for one month in order to allow more time for the applicant to prepare supplementary information to address the comments of the Environmental Protection Department and the Urban Design Unit of the Planning Department.

100. The Secretary reported that the application had been deferred once due to the need to prepare development plans of the proposed houses to address the comments of relevant government departments. The applicant had subsequently submitted further information in September and November 2011 respectively but the issues had not yet been resolved.

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

Agenda Item 29

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TT/292 Proposed Temporary Open Storage of Construction Materials
for a Period of 3 Years in “Agriculture” zone,
Lot No. 2224 (Part) in D.D. 118 and Adjoining Government Land,
Sung Shan New Village, Tai Tong, Yuen Long
(RNTPC Paper No. A/YL-TT/292)

Presentation and Question Sessions

102. 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 proposed temporary open storage of construction materials for a period of three years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers in the vicinity of the site and environmental nuisance was expected;
- (d) three public comments from Designing Hong Kong Ltd (DHKL), the villagers of Sung Shan New Village and the Residents Association of Yuen Long Sung Shan New Village were received during the first three weeks of the statutory publication period. All the commenters objected to the application mainly on the grounds that the proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone and was a blight on the environment, and the use of heavy goods vehicles for the proposed development would cause road safety and environmental problems and nuisance. DHKL further suggested that landscaping and fencing conditions should be stipulated should the application be approved; 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 site fell within Category 3 areas under the TPB Guidelines No. 13E where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals. The proposed development was not in line with the planning intention of the “AGR” zone on the OZP and was also incompatible with the surrounding area which was generally rural in character. The scattered open storage yards/warehouses nearby within the subject “AGR” zone were mostly suspected unauthorized developments. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis. The proposed development was not in line with the TPB Guidelines No.13E in that there was no previous planning approval granted for the site and there was adverse departmental comment. DEP did not support the application as there were sensitive

receivers in the vicinity of the site and environmental nuisance was expected. Moreover, the applicant's submitted drainage proposal was not satisfactory and the proposed concrete wall for landscape treatment was inadequate. The applicant failed to demonstrate that the development would not generate adverse impact on the surrounding areas. There was also no information in the submission to demonstrate why suitable sites within the "Open Storage" zones on the Tai Tong OZP could not be made available for the applied development. Besides, no planning approval had been granted for similar uses in the subject "AGR" zone. Approval of the application would set an undesirable precedent for other similar uses to proliferate into the zone. Public/local objections were received mainly due to contravention of planning intention, as well as road safety and environmental concerns.

103. Members had no question on the application.

Deliberation Session

104. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the "Agriculture" zone on the Outline Zoning Plan (OZP) which was to reserve land for agricultural purposes. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the proposed development was not in line with the Town Planning Board Guidelines No. 13E for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' in that there was no previous planning approval granted for the site, and there were adverse departmental comment and local objections against the application;

- (c) the applicant failed to demonstrate in the submission that the proposed development would not cause adverse environmental, landscape and drainage impacts on the surrounding areas;
- (d) two areas were zoned “Open Storage” (“OS”) on the Tai Tong OZP to cater for the use under application. There was no information in the submission to demonstrate why suitable sites within these “OS” zones could not be made available for the proposed development; and
- (e) approval of the application would set an undesirable precedent for other similar uses to proliferate into the zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

Agenda Item 30

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/555 Temporary Warehouse for Storage of Building Materials
(Ceramic Tiles) for a Period of 3 Years .
in “Residential (Group C)” zone,
Lots 1294 (Part), 1295 (Part), 1298 (Part), 1301 (Part), 1302,
1303, 1304 (Part), 1305 (Part), 1306 (Part) and 1307 in D.D. 119,
Pak Sha Tsuen, Yuen Long

 (RNTPC Paper No. A/YL-TYST/555)

Presentation and Question Sessions

105. 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 warehouse for storage of building materials (ceramic tiles) for a period of three years;
- (c) departmental comments – the Director of Environmental Protection did not support the application as there were sensitive receivers of residential uses in the vicinity of the site and environmental nuisance was expected;
- (d) no public comment was received during the first three weeks of the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under application could be tolerated for a period of two years, instead of three years as proposed by the applicant, based on the assessment made in paragraph 11 of the Paper. The warehouse under application was not in line with the planning intention of the “Residential (Group C)” (“R(C)”) zone. Although there were warehouses and storage yards in the vicinity of the site, they were mostly suspected unauthorized developments. With the completion of the residential development of One Hyde Park at about 60m to the east of the site in the same “R(C)” zone in 2009, there was also a change in the planning circumstances of the area. In this regard, two similar applications (No. A/YL-TYST/524 and 525) for temporary warehouse use near the site in the same “R(C)” zone, which did not involve any previous applications, were rejected by the TPB on review on 15.7.2011 and by the Committee on 18.3.2011 recently. However, in view of the fact that there were four previous applications (No. A/YL-TYST/169, 285, 344 and 377) for temporary warehouse use approved on the site since 2002, the approval conditions of the last two applications were complied with satisfactorily and there was no substantiated environmental complaint in the past three years, the current application for the same use might be tolerated for one more time on sympathetic ground but for a shorter period of two years to allow time for the applicant to relocate the development to a more suitable location. While most government departments consulted had no adverse comment on the application, DEP did not support the

application as there were sensitive receivers in the vicinity of the site and environmental nuisance was expected. To address the concern of DEP, approval conditions restricting the operation hours, prohibiting open storage and workshop activities and restricting the use of heavy goods vehicles were recommended. Relevant approval conditions on the drainage, tree preservation and landscaping and fire safety aspects were also recommended to address the technical requirements of other concerned government departments.

106. Members had no question on the application.

Deliberation Session

107. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 2 years until 18.11.2013, 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) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the application site during the planning approval period;
- (c) no open storage, as proposed by the applicant, was allowed on the application site at any time during the planning approval period;
- (d) no dismantling 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;
- (e) no heavy goods vehicle exceeding 24 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant, was allowed to park/store on or enter/exit the application site at

any time during the planning approval period;

- (f) the existing drainage facilities on the application site should be maintained at all times during the planning approval period;
- (g) the submission of a record of the existing drainage facilities on the application site within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 18.5.2012;
- (h) 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 18.5.2012;
- (i) in relation to (h) 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 18.8.2012;
- (j) 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 18.5.2012;
- (k) in relation to (j) 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 18.8.2012;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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;
- (m) if any of the above planning conditions (g), (h), (i), (j) or (k) 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

- (n) 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.

108. 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 site;
- (b) a shorter approval period of 2 years was granted so as to allow time to relocate the development to a more suitable location. No further renewal of the approval would be given unless with very strong reasons;
- (c) to resolve any land issue relating to the development with the concerned owner(s) of the site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the lot owners would need to apply to his office to permit structures to be erected or regularize any irregularities on-site. Such application would be considered by the Lands Department (LandsD) acting in the capacity as landlord at its sole discretion. If such application was approved, it would be subject to such terms and conditions, including among others the payment of premium or fee, as might be imposed by LandsD. Besides, the site was accessible through an informal track on government land and other private land extended from Kung Um Road. His office provided no maintenance works for this track nor guarantees right-of-way. Part of the government land was temporarily allocated to the Drainage Services Department for the “PWP Item 4368DS (part-upgraded from 4235DS in Might 2009) – Yuen Long South Branch Sewers” project;
- (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 the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;

- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department should not be responsible for the maintenance of any access connecting the site and Kung Um Road;
- (g) 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;
- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (PlanD) that comparing with the implemented and accepted landscape works for the previous application, 3 trees along the southern perimeter of the site were found dead and 6 were found missing along the northern perimeter. Replacement planting was hence required. Moreover, those existing trees as shown on the submitted landscape and tree preservation proposal (Drawing A-2 of the Paper) did not quite tally with the actual situation on-site;
- (i) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that for provision of water supply to the development, the applicant might need to extend his 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;
- (j) to note the comments of the Director of Fire Services on the requirements on formulating fire service installations (FSIs) proposal in Appendix IV of the Paper. 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;

- (k) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that there was no record of approval by the Building Authority (BA) for the structures existing at the site. If the existing structures were erected on leased land without approval of BD, they were unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the subject planning application. Before any new building works were to be carried out on the site including any temporary structures, the prior approval and consent of the BA should be obtained, otherwise they were unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. For UBW erected on leased land, enforcement action might be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of planning approval should not be construed as an acceptance of any existing building works or UBW on-site under the BO; and

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

carrying out works in the vicinity of the electricity supply lines.

[The Chairman thanked Mr. C.C. Lau, Mr. Vincent T.K. Lai, Mr. Ernest C.M. Fung and Mr. Kepler S.Y. Yuen, STPs/TMYL, for their attendance to answer Members' enquires. Messrs. Lau, Lai, Fung and Yuen left the meeting at this point.]

Agenda Item 31

Any Other Business

109. There being no other business, the meeting closed at 4:30 p.m..