

## **TOWN PLANNING BOARD**

### **Minutes of 458th Meeting of the Rural and New Town Planning Committee held at 2:30 p.m. on 20.1.2012**

#### **Present**

Director of Planning  
Mr. Jimmy C.F. Leung

Chairman

Mr. Walter K.L. Chan

Vice-chairman

Mr. B.W. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Professor Edwin H.W. Chan

Mr. Timothy K.W. Ma

Dr. C.P. Lau

Dr. W.K. Lo

Dr. W.K. Yau

Chief Traffic Engineer/New Territories West,  
Transport Department  
Mr. W.C. Luk

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

Assistant Director/New Territories,  
Lands Department  
Ms. Anita K.F. Lam

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

Secretary

**Absent with Apologies**

Mr. Rock C.N. Chen

Dr. James C. W. Lau

Ms. Anita W.T. Ma

Mr. Stephen M.W. Yip

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

**In Attendance**

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

Chief Town Planner/Town Planning Board  
Ms. Christine K.C. Tse

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

**Agenda Item 1**

Confirmation of the Draft Minutes of the 457th RNTPC Meeting held on 6.1.2012

[Open Meeting]

1. The draft minutes of the 457th RNTPC meeting held on 6.1.2012 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**

**Agenda Item 3**

Section 16 Application

[Open Meeting]

A/SK-HC/185            Proposed House (New Territories Exempted House – Small House)  
in “Green Belt” zone,  
Lot No. 1945 S.H in D.D. 244, Mok Tse Che, Sai Kung  
(RNTPC Paper No. A/SK-HC/185C)

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3. The Committee noted that the applicant’s representative requested on 5.1.2012 for a deferment of the consideration of the application for two months in order to allow sufficient time for the completion of works/assessments in making responses to departmental comments on the application.
4. The Secretary stated that the application had been deferred three times since 2010 due to the need to provide responses to departmental comments and submit technical assessments to address departmental comments, including a Natural Terrain Hazard Study

Report and a landscape proposal. The applicant had endeavoured to submit further information each time to address the departmental comments on the application.

5. 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 a total period of ten months had been allowed, no further deferment would be granted unless under very special circumstances.

[Professor Paul K.S. Lam left the meeting temporarily and Dr. W.K. Lo and Professor Edwin H.W. Chan arrived to join the meeting at this point.]

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

#### **Agenda Item 4**

##### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/206	Proposed House (New Territories Exempted House – Small House) in “Agriculture” zone, Lots 678 S.B RP and 678 S.C ss.1 in D.D. 244, Ho Chung, Sai Kung (RNTPC Paper No. A/SK-HC/206)
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6. The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with PlanArch Consultants Ltd, the consultant of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

Presentation and Question Sessions

7. Mr. Charles C.F. Yum, 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 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. Other government departments had no adverse comment/objection to the application;
- (d) one public comment from Designing Hong Kong Ltd was received during the first three weeks of the statutory publication period. The commenter objected to the application as the site was zoned for agricultural purpose and there was a lack of a sustainable village layout for the area; and

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

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. The application site was located within the village 'environs' ('VE') and there was a shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone. Sympathetic consideration could be given to the application in accordance with the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories' (the Interim Criteria). The proposed NTEH had no adverse impact on the surrounding area and in general, concerned government departments had no objection to the application. Although DAFC advised that the site had high potential for agricultural rehabilitation,

there were no farming activities at the site and the proposed Small House development was compatible with the surroundings. One of the grounds for the Committee to reject the two previous applications (No. A/SK-HC/86 and 89) straddling the site in 2001 was that sufficient land had been reserved within the “V” zone to meet the Small House demand. Nevertheless, the current Small House demand estimate indicated that there was a general shortage of land to meet the future demand. Besides, similar applications in the vicinity had been approved by the TPB since 2005. As to the public comment concerning the planning intention of the subject “Agriculture” zone and the lack of a sustainable layout for the area, the application deserved sympathetic consideration according to the Interim Criteria and the proposed Small House would have no adverse impacts on the surrounding area as confirmed by relevant government departments.

8. Members had no question on the application.

#### Deliberation Session

9. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 20.1.2016, 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 proposal to the satisfaction of the Director of Planning or of the TPB; and
- (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.

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

- (a) 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 the WSD's standard;

- (b) 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;
- (c) to note the comments of the Chief Engineer/Mainland South, Drainage Services Department (DSD) that the subject site was within an area where there was no DSD's sewerage connection available in the vicinity at present;
- (d) to note the comments of the Commissioner for Transport that there was a vehicular access leading to the site which was not managed by the Transport Department. The status of the vehicular access leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same vehicular access should be clarified with the relevant lands and maintenance authorities accordingly; and
- (e) to note the comments of the Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD) that the application site fell within the boundary of the Ho Chung Site of Archaeological Interest. The applicant was required to provide the AMO, LCSD with sufficient time and let the staff of the AMO to enter the subject site to conduct an archaeological survey prior to the commencement of construction works.

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

**Agenda Item 5**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/ DPA/I-TOF/3      Proposed House (New Territories Exempted House – Small House)  
in “Green Belt” and “Village Type Development” zones,  
Lot 479 in D.D. 313, Leung Uk Tsuen, Tai O, Lantau Island  
(RNTPC Paper No. A/DPA/I-TOF/3)

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**Presentation and Question Sessions**

11.            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 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 there was a general presumption against development within the “Green Belt” (“GB”) zone and approval of the application would set an undesirable precedent for similar Small House developments within the “GB” zone and defeat the primary function of the zone as a green buffer. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application on the grounds that approving the application would set an undesirable precedent and attract similar request for Small House development resulting in the expansion of the village onto the “GB” zone;
- (d) 26 public comments against the application from organisations including the Conservancy Association, Association for Tai O Environment and



Development, Green Lantau Association, Designing Hong Kong Ltd, the Hong Kong Bird Watching Society, Kadoorie Farm and Botanic Garden Corporation, Green Sense and WWF Hong Kong and individuals were received during the first three weeks of the statutory publication period. The commenters raised objection to the application mainly on the grounds that the proposed Small House was not in line with the planning intention of the “GB” zone; the proposed development would result in adverse landscape impacts on the surroundings; approving the application would set an undesirable precedent; and there was sufficient land within the “Village Type Development” (“V”) zone for Small House development; and

- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessment made in paragraph 12 of the Paper. The proposed development was not in line with the planning intention of the “GB” zone where there was a general presumption against development within the “GB” zone. The site was only about 15m away from the Tai O Reedbed, which was the second largest reedbed in Hong Kong having high landscape and ecological value. Moreover, the site and its surroundings form part of the wider “GB” zone intended to serve as a buffer area between the Tai O Reedbed and the village type developments in Leung Uk Tsuen. The applicant was an indigenous villager of Yi O and the application involved cross-village application for Small House development within the same Heung. However, there was no information in the submission to demonstrate why the proposed Small House development could not be accommodated in Yi O. Besides, there was no shortage of land to meet the future Small House demand of Leung Uk Tsuen. In this regard, the application was considered not in line with the TPB Guidelines No. 10 and did not meet the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ (the Interim Criteria) in that the proposed Small House was not in line with the planning intention of the “GB” zone and would cause adverse landscape impacts on the surrounding area. Both DAFC and CTP/UD&L of PlanD did not support the application. Approving the application would set an undesirable precedent for similar applications within the “GB”

zone and attract similar request for NTEH development resulting in the expansion of the village onto the “GB” zone. Besides, there were public comments received against the application for reasons concerning the planning intention of the “GB” zone, adverse landscape impacts on the surrounding area, undesirable precedent to other similar applications and no shortage of land for Small House development within the “V” zone.

12. Members had no question on the application.

### Deliberation Session

13. The Chairman, by referring to Plan A-3 of the Paper, asked if site formation works had been undertaken at the area to the northeast of the site and whether there was enough land within the “V” zone of Leung Uk Tsuen for Small House development noting the area of woodland as shown in the aerial photo. In response, Mrs. Margaret W.F. Lam said that the site in question involved unauthorised land filling activities and was subject to enforcement action by the Planning Authority. Mrs. Lam further stated that the 2.2 ha of land available to meet the 10-year Small House demand had taken into account the woodland present in the “V” zone. Nevertheless, it should be noted that land within the “V” zone was intended to meet the Small House demand of Leung Uk Tsuen villagers but the applicant was an indigenous villager of Yi O, not Leung Uk Tsuen.

14. 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 proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zone which was primarily for defining the limits of development areas by natural features and to preserve the existing topography and natural vegetation as well as to provide passive recreational outlets. There was a general presumption against development within this zone. The proposed development was also not in line with the Town Planning Board Guidelines No. 10 for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ in that

it would cause adverse landscape impacts on the surrounding area;

- (b) the proposed development was not in line with 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 area. There was no information in the submission to demonstrate that the proposed development would have no adverse landscape impacts on the surrounding area; 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 application would affect the integrity of the “GB” zone, undermine the “GB” zone as a buffer between the “Village Type Development” zone and Tai O Reedbed zoned “Conservation Area”, and cause adverse landscape impacts on the surrounding area.

### **Agenda Item 6**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

Further Consideration of Application No. A/SK-CWBN/19

Proposed Holiday Camp and Filling of Land (i.e. Levelling of Maximum 0.5m) and Environmental Education Centre within 2 Structures in “Green Belt” zone, Lot Nos. 72RP, 73, 75, 76, 77S.A, 77S.B, 77RP, 78, 79(Part), 80S.A, 80S.B, 80RP, 81, 82, 83RP, 84RP, 96RP, 97RP, 98, 99RP, 100, 101, 102, 103, 104, 105, 106, 107, 121, 122, 123, 124, 126, 127, 129S.A (Part), 129S.B (Part), 129RP (Part), 130, 132, 133 and Adjoining Government Land in D.D. 229, Sai Kung

(RNTPC Paper No. A/SK-CWBN/19A)

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15. 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, one of the consultants of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting. Members noted that Ms. Kwong was

temporarily away from the meeting.

16. The Secretary stated that a letter dated 16.1.2012 was received from a local villager of Tai Po Tsai in Sai Kung, who had submitted a public comment on the application which was out-of-time. That local villager was discontented that his comment on the application was not accepted by the TPB. The local villager said that there was a grave of the ancestor of Tai Po Tsai villages near the application site and the proposed development would create adverse impact on the surrounding area, in particular the 'fung-shui' of the grave nearby. The local villager also queried that the notice for the subject application was posted at an inappropriate time and place with an intention to avoid public objection. The local villager further complained that the TPB and Planning Department (PlanD) were not willing to communicate with him regarding his comment on the application. The letter was tabled at the meeting for Members' information.

#### Presentation and Question Sessions

17. Mr. Ivan M.K. Chung, DPO/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 – the application, submitted by Ideal Star Ltd on behalf of the Sir Run Run Shaw Charitable Trust, sought planning permission to use the southern part of the application site (hard paved area about 1,732m<sup>2</sup> out of a total area of 11,601 m<sup>2</sup>) for a two-storey holiday camp with recreational facilities, multi-function hall, function room, dormitory and ancillary facilities to be used by the staff of the Shaw associated companies, with associated site formation (land levelling up to a maximum of 0.5m) for the proposed use, whilst the remaining northern part of the site (about 9,869 m<sup>2</sup>) would be put under a Green Belt Restoration Plan (GBRP) with an Environmental Education Centre (EEC). During the consideration of the application on 7.10.2011, some Members opined that the provision of the EEC for public use could be regarded as a planning gain and sympathetic consideration might be given. The Committee, after deliberation, decided to defer the consideration of the application and requested the applicant to provide further information (FI) to substantiate

its proposals of opening the proposed holiday camp and the EEC for public use. On 18.11.2011 and 16.12.2011, the applicant provided FI regarding the objective, establishment and operation of the EEC and the mode of opening the holiday camp for public use;

- (b) further consideration of the proposed holiday camp and filling of land (i.e. levelling of maximum 0.5m) and EEC within two structures;

[Ms. Anna S.Y. Kwong returned to join the meeting at this point.]

- (c) departmental comments – after examining the application and taking into account the FI submitted by the applicant on 18.11.2011 and 16.12.2011, the Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD objected to the application as the overall scale, including the area under the proposed GBRP at the northern part of the site, was excessive and not in line with the planning intention of the “Green Belt” (“GB”) zone, and no information had been provided in the submission to demonstrate that the proposed development would have no adverse impact on the trees along the site boundary. Besides, the proposed site formation and hard-paving was considered excessive and not in line with the planning intention of the “GB” zone. The Chief Engineer/Mainland South, Drainage Services Department (CE/MN, DSD) commented that the applicant should provide information to ensure that the collected runoff could be discharged into the existing drainage system. The applicant should also ensure the proposed drainage works, when completed, and the downstream drainage systems had adequate capacity and were in good conditions to accommodate the runoff collected from the site and all upstream catchment;
- (d) as the FI submitted by the applicant did not constitute a material change to the nature of the application and involved only elaboration of the proposal previously submitted, it had not been published for public inspection; and
- (e) the Planning Department (PlanD)’s views – based on the assessment made

in paragraph 6 of the Paper, PlanD maintained its previous view of not supporting the application, which were summarised below :

- (i) the site fell within an area zoned “GB” where there was a general presumption against development within this zone. The site was being used as a plant nursery and was mainly covered with vegetation including trees and shrubs. The proposed development of holiday camp for private use was not in line with the planning intention of the “GB” zone and did not comply with the TPB Guidelines No. 10 in that the proposed development would cause adverse landscape impact on the surrounding area. CTP/UD&L of PlanD, in this regard, raised objection to the application;
- (ii) whilst the site was within a shallow valley surrounded by vegetated slopes with a 2m wide channelized stream flowing through, the proposed development would involve filling of the site by a maximum of 0.5m in height. CE/MS of DSD pointed out that the applicant should provide sufficient information to demonstrate that the proposed drainage worked and the downstream drainage systems had adequate capacity and were in good conditions to accommodate the runoff collected from the site and all upstream catchments;
- (iii) approval of the application might set an undesirable precedent for attracting other similar applications within the “GB” zone on the OZP. The cumulative effect of approving such proposals would bring about adverse landscape impact on the area, adversely affect the integrity of the “GB” as an effective green buffer, and result in a general degradation of the environment; and
- (iv) the applicant had elaborated in the FI that the cost and expenditure of proposed EEC would be borne by the applicant and school groups joining the daytime programme would be free of charge while those joining the night time programme would be charged for meals and accommodation only. Not fewer than five half-day sessions and

one night time session would be set aside for school/universities/other public groups. The applicant would open the EEC (total GFA of 80m<sup>2</sup>) for public use whereas the holiday camp with a total GFA of 970m<sup>2</sup> would be mainly for private use. Despite the applicant's proposal to open the EEC for public use, the applicant had not provided strong planning justifications to justify a departure from the planning intention of the "GB" zone and sufficient information to demonstrate no adverse landscape impact on the surroundings; and

- (v) according to the TPB Guidelines No. 10, development within the "GB" zone would only be considered in exceptional circumstances and had to be justified with very strong planning grounds. The crux of the matter was whether the proposed EEC with GFA of 80m<sup>2</sup> and the occasional use of the holiday camp for charitable events and for school groups and other members of the public could be regarded as a planning gain and the application, within the "GB" zone, could be approved under exceptional circumstances given that there was a presumption against development within this zone.

18. A Member noted that the applicant had proposed in the application to include an additional site area of about 7,000m<sup>2</sup> at the northern part of the site for a GBRP with a view to enhancing the ecological value of the area and asked whether it could be regarded as a planning merit in assessing the current application.

19. In response, Mr. Ivan M.K. Chung said that as compared with the previous application for proposed holiday camp use (No. A/SK-CWBN/13) which was rejected by the Committee on 10.9.2010, the applicant had included in the current submission an additional 7,000m<sup>2</sup> of land zoned "GB" to the north of the holiday camp for a GBRP, which amounted to about 9,869m<sup>2</sup> or about 85% of the total site area. According to the applicant, the purpose of the GBRP was to enhance the ecological value of the area through such measures as tree preservation, planting of native seedling and modification of concrete ponds. The restored "GB" area and the measures taken could be demonstrated to the public through the environmental education programme provided by the applicant. With respect to the

proposed GBRP, the Director of Agriculture, Fisheries and Conservation (DAFC) advised that given time, while the site of the GBRP would be returned to a natural state if left undisturbed. The CTP/UD&L of PlanD commented that the overall scale of the scheme, including the area under the GBRP at the northern part of the site, was considered excessive and it might have adverse landscape impacts on the surrounding area. Mr. Chung further said that the proposed development, including the proposed holiday camp use, was not in line with the planning intention of the “GB” zone and was incompatible with the surrounding landscape setting.

20. Upon the enquiry of a Member, Mr. Ivan M.K. Chung, said that the applicant had not provided specific information to explain the ecological significance of the site, including the northern part of the site which was proposed for the GBRP use. The applicant only proposed measures on tree preservation, new planting/transplanting of native species in the area.

21. Mr. Ivan M.K. Chung, in replying the question of another Member, stated that, according to a recent site inspection, the two structures proposed to be used as the EEC were vacant. Mr. Chung also confirmed that over 95% of the site, including the two structures, was owned by the applicant, while the remaining 5% (about 590m<sup>2</sup>) was government land.

22. In response to an enquiry of a Member, Mr. Ivan M.K. Chung said that the Education Bureau (EDB) was not consulted on the application as the nature of the application was not under its ambit. Nevertheless, concerned government departments consulted did not express particular view on the EEC.

23. Noting the applicant’s claim that qualified staff would be employed to run the environmental education programme, a Member asked whether the applicant had indicated the involvement of any non-governmental organization (NGO). In reply, Mr. Ivan M.K. Chung said that the applicant had not indicated if agreement had been made with any NGO to operate the EEC. Nevertheless, a technical proposal for the EEC had been included in the Supporting Planning Statement submitted by the applicant providing information on the number, type and qualification requirements of staff for operating the proposed EEC.



Deliberation Session

24. To recapitulate, the Chairman said that when the application was considered by the Committee on 7.10.2011, there had been a lengthy discussion on whether the EEC and the opening of the proposed holiday camp for public use could be regarded as a planning gain. As Members considered that the opening of the proposed development in particular the holiday camp for public use was crucial in consideration of the application, it was decided at the last meeting to defer the application pending the provision of FI from the applicant to substantiate its proposals of opening the holiday camp for public use.

25. The Chairman said that the application site was zoned "GB" on the OZP and there was a general presumption against development within this zone. Nevertheless, in considering a planning application, Members should take note of the design/planning merits of the development proposal submitted and consider whether there were sufficient planning gains that could justify the approval of the application. From the FI provided by the applicant on the operation of the EEC and the opening of the accommodation facilities of the holiday camp for public use, Members would have to decide if that could be regarded as a planning gain and if so, whether the planning gain was sufficient to justify the approval of the application.

26. A Member enquired whether the Board, in the considering a planning application, should adopt a broadbrush principle by looking at the planning gain and design/planning merits of a development proposal. Otherwise, the Board might need to spend a lot of time to consider each case if Members had to go into details of each scheme.

27. On the issue of ensuring the proposed EEC and holiday camp would be open for public use, the Chairman said that while no government department would be able to monitor the day to day operation, Members of the public and the media could monitor the situation if they were aware of such facilities being open for public use. The same issue had been raised when the application was discussed by the Committee in October 2011, LandsD had indicated that they would not have sufficient staff resources to monitor the opening of the EEC and holiday camp for public use. Nevertheless, the Chairman said that concerned government departments would take appropriate action in case the approval conditions were not complied with by the applicant, if the application was approved.

28. Given that the applicant had not indicated that there were any areas of special ecological significance in the area proposed for the GBRP, and only measures such as tree preservation, new planting/transplanting of native species would be introduced, a Member considered that the proposed GBRP did not seem to be able to enhance the ecological value of the area. It was noted that the applicant had proposed to use a relatively large area of the site for holiday camp which was not in line with the planning intention of the “GB” zone. In this regard, that Member was of the view that the application should not be approved. The same Member also said that only the two existing structures could serve the purpose of a EEC, which was not sufficient to constitute an exceptional circumstance to justify a departure from the “GB” planning intention.

29. A Member also had reservation on the application as the proposed development including the EEC and GBRP was to be operated by a private firm and the information provided was not detailed enough to justify the approval of the application.

30. The views were shared by another Member, who also opined that there was no concrete proposal included in the FI to substantiate the proposed development and the GBRP/EEC. The opening of the holiday camp for public use would not be sufficient to warrant the approval of the application.

31. Upon the invitation of the Chairman, Mr. Ivan M.K. Chung explained that the GBRP was included in the original submission made by the applicant in August 2011. Information about the concept of the GBRP was included in the Supporting Planning Statement submitted by the applicant. According to the applicant, the GBRP would mainly include the replacement of some exotic plants and dead trees with indigenous species in order to provide shelters for local wildlife, to act as larval food plants and nectar source for butterflies as well as to attract breeding birds to use the restored green belt. About 410 trees would be retained, 13 trees would be transplanted and 39 trees were compensatory planting. Besides, the existing concrete ponds would be modified into ecologically friendly ponds and the existing stream could also be enhanced with submergent and emergent aquatic vegetation. The applicant had indicated that the GBRP area would demonstrate the variety in the ecosystem to the public through the environmental education programme to be organised by the EEC.

32. Mr. Ivan M.K. Chung supplemented that the applicant had included an ecological baseline assessment in the submission. The report, together with the Supporting Planning Statement, had been circulated to the DAFC for comment. DAFC did not indicate that any special species had been identified in the area.

33. The Chairman drew Members' attention to two appendices included in the Supporting Planning Statement submitted by the applicant, which contained the proposals regarding the implementation of the GBRP and the operation of the EEC.

34. The Chairman said that part of the site was currently used as a plant nursery. DAFC had advised that since the site was disturbed, the plant nursery use would not help restore the area. DAFC also indicated that if the site was left undisturbed, the area would gradually restore to its original natural state. However, if an active restoration plan was introduced, it could help speed up the restoration process and benefit the return of the site to a natural state.

35. Mr. Ivan M.K. Chung said that access to the northern part of the site had to be made via a vehicular track through the plant nursery. In this regard, the applicant had proposed in the scheme that the future access to the holiday camp would be gained via a new access road at the eastern of the site leading from Clear Water Bay Road. Mr. Chung said that the applicant had to settle the tenancy agreement issue with the plant nursery should the development proposal proceed in the future.

36. A Member, by referring to the appendices on the GBRP and EEC submitted by the applicant, said that the ecological survey undertaken by the consultants was rather superficial and the information was mainly textbook review. That Member was not convinced why the GBRP had to be undertaken instead of leaving the area undisturbed so as to let it return to its natural state over time. With respect to the operation of the EEC, that Member pointed out that discussion should have been made with NGO before making the submission but the applicant did not even do so. The Member did not support the application.

37. Another Member also did not support the application and said that the applicant

had failed to provide sufficient information to illustrate how the EEC and GBRP would be operated or implemented. More details of the proposal had to be provided to justify the proposal.

38. Mr. Ivan M.K. Chung drew Members' attention to paragraph 2.7 of the Paper and said that the applicant had indicated in the FI that a qualified NGO would be appointed as the operator of the environmental education programme and initial discussion had already been started with experienced potential operators. Nevertheless, the applicant did not indicate that a particular NGO had been identified for operating the environmental education programme.

39. After further deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development of a holiday camp and environmental education centre 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. There was a general presumption against development in "GB" zone. No strong planning justifications had been provided in the submission for a departure from the planning intention;
- (b) the proposed development did not comply with the Town Planning Board Guidelines No. 10 in that there were no exceptional circumstances to approve the proposed development within the "GB" zone and the proposed development would cause adverse landscape impact on the area. There was insufficient information to demonstrate that the proposed holiday camp use, filling of land and environmental education centre would not create adverse impacts on the surrounding area; and
- (c) approval of the application would set an undesirable precedent for similar applications within the "GB" zone. The cumulative effect of approving

such similar proposals would result in a general degradation of the environment and bring about adverse landscape impact on the area.

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

### **Agenda Item 7**

#### **Section 16 Application**

[Open Meeting]

A/SK-CWBN/20      Proposed House (Staff Quarters)  
in “Conservation Area” and “Government, Institution or  
Community (6)” zones and an area shown as ‘Road’,  
Lot Nos. 171, 172, 174, 178RP, 180, 184 and 185RP in D.D. 227  
and Adjoining Government Land, Tai Po Tsai, Clear Water Bay North,  
Sai Kung  
(RNTPC Paper No. A/SK-CWBN/20)

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40.           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, one of the consultants of the application. The Committee noted that Mr. Yip had tendered apology for being unable to attend the meeting. As the applicant had requested for a deferment of consideration of the application, the Committee agreed that Ms. Kwong was allowed to stay in the meeting.

41.           The Committee noted that the applicant’s representative requested on 10.1.2012 for a deferment of the consideration of the application for one month in order to allow additional time to prepare further information to address the comments/concerns of government departments.

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

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

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

#### **Agenda Item 8**

##### **Section 12A Application**

[Open Meeting]

Y/NE-TK/10                      Application for Amendment to the Approved  
Ting Kok Outline Zoning Plan No. S/NE-TK/17 from  
“Agriculture” to “Other Specified Uses” annotated  
“Spa Resort Hotel and Nature Preservation”,  
Various Lots in D.D. 17 and Adjoining Government Land,  
Ting Kok, Tai Po  
(RNTPC Paper No. Y/NE-TK/10)

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43.            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, one of the consultants of the application. The Committee noted that Mr. Yip had tendered apology for being unable to attend the meeting. As the applicant had requested for a deferment of consideration of the application, the Committee agreed that Ms. Kwong was allowed to stay in the meeting.

44.            The Committee noted that the applicant's representative requested on 6.1.2012 for a deferment of the consideration of the application for two months in order to allow time for the preparation of further information to address various departmental comments.

45. 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 three 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 9**

#### **Section 12A Application**

[Open Meeting]

Y/TP/14                      Application for Amendment to the Draft Tai Po Outline Zoning Plan  
No. S/TP/23 from “Village Type Development” to  
“Other Specified Uses” annotated “Columbarium”,  
Lots 738 S.C and 738 S.C s.s.1 in D.D. 6, 74-75 Kam Shan Road,  
Tai Po  
(RNTPC Paper No. Y/TP/14B)

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46. The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with Vision Planning Consultants Ltd, the consultant of the application. As the applicant had requested for a deferment of consideration of the application, the Committee agreed that Ms. Kwong was allowed to stay in the meeting.

47. The Committee noted that the applicant’s representative requested on 9.1.2012 for a deferment of the consideration of the application for another two months to allow sufficient time to address the comments raised by relevant government departments on the application.

48. The Secretary stated that the application had been deferred twice since May 2010 due to the need to prepare further information to address the comments raised by relevant

government departments. The applicant had endeavoured to submit further information each time to address the departmental comments on the application.

49. 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 three 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 third deferment of the application and a total period of six months had been allowed, this should be the last deferment and no further deferment would be granted.

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

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

### **Agenda Item 10**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-FTA/112      Temporary Vehicle Park (Container Vehicles, Medium Goods Vehicles and Private Cars), Storage and Loading/Unloading of Goods for a Period of 3 Years in “Agriculture”, “Green Belt” and “Other Specified Uses” annotated “Port Back-up Uses” zones, Lots 168 RP(Part), 170 RP(Part) and 181 RP(Part) in D.D.52 and Adjoining Government Land, Fu Tei Au, Sheung Shui  
(RNTPC Paper No. A/NE-FTA/112)

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

50. Ms. Doris S.Y. Ting, STP/STN, said that replacement page 17 of the Paper was 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 vehicle park (container vehicles, medium goods vehicles and private cars), storage and loading/unloading of goods for a period of three years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were domestic structures in the vicinity of the site. He, however, advised that there was no environmental complaint regarding the site in the past three years. The Director of Agriculture, Fisheries and Conservation (DAFC) objected to the application as the site had high potential for agricultural rehabilitation;
- (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 the Indigenous Inhabitant Representative of Wa Shan Tsuen commented that the application should follow the laws of Hong Kong and policy of concerned government departments; and

[Mr. B.W. Chan left the meeting temporarily 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 made in paragraph 12 of the Paper. The site fell mainly within Category 1 areas (about 91.6%) where favourable consideration would normally be given to applications within these areas, partly within Categories 3 areas where applications would normally not be favourably considered, and partly within Category 4 areas where applications would normally be rejected under the TPB Guidelines No. 13E. The temporary use under application was generally in line with the planning intention of “Other Specified Uses” annotated “Port Back-up

Uses” zone, and was not incompatible with the surrounding land uses. It was anticipated that the development would not cause significant adverse impacts on the surrounding area and concerned government departments in general had no objection to the application. Although DAFC did not support the application, it was noted that only small portions of the site fell within the “Agriculture” (“AGR”) and “Green Belt” (“GB”) zones. Moreover, part of/the whole of the site was the subject of two previous approved applications for similar uses. In this regard, the application was considered generally in line with the TPB Guidelines No. 13E in that majority of the site fell within Category 1 area and no major departmental comments or local objections had been received on the application. Although DEP did not support the application, no environmental complaint against the site had been received in the past three years. An approval condition restricting the operation hours was recommended to minimize the possible environmental nuisance. Regarding Water Supplies Department’s concerns that the site should not encroach on the waterworks reserve (WWR), an approval condition prohibiting any structure to be erected within the WWR was recommended. Although the application site fell within the boundaries of the North East New Territories New Development Areas (NDA) Planning and Engineering Study, approval of the application on a temporary basis for a period of three years would not pose constraint to the development of the NDA. Nevertheless, as the previous planning approval was revoked due to non-compliance with the approval conditions, shorter compliance periods were proposed to monitor the progress of compliance.

51. Members had no question on the application.

#### Deliberation Session

52. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 20.1.2015, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night time operation between 7:00 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 structure should be built or materials stored within the waterworks reserve as shown on Plan A-2 of the Paper during the planning approval period;
- (d) the submission and implementation of landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 20.7.2012;
- (e) the submission and implementation of proposals for fire service installations and water supplies for fire-fighting within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 20.7.2012;
- (f) the submission and 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 20.7.2012;
- (g) if any of the above planning conditions (a), (b) or (c) 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
- (h) if any of the above planning conditions (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.

53. 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 application 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) prior planning permission should have been obtained before commencing the development on-site;
- (d) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (e) to note the comments of the District Lands Officer/North that the owners of the lots should be advised to apply to his office for Short Term Waivers (STWs) and a Short Term Tenancy (STT) for regularization of the structures and the unauthorised occupation of government land. There was no guarantee that the STWs and STT would be granted to the applicants. If the STWs and STT were granted, the grant 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 fees;
- (f) to note the comments of the Director of Fire Services that if no building plan would be circulated to his department via the Centralized Processing System of Buildings Department and covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) were erected within the application site, the applicant was required to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) for his approval and to subsequently provide the FSIs in accordance with the approved proposal. In preparing the submission for FSIs proposal for his approval, the applicant was advised that :

- (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of the proposed FSIs should be clearly marked on the layout plans;
- (g) to note the comments of the Commissioner for Transport that the land status of the access leading from Man Kam To Road to the application site should be checked with the lands authority, and the management and maintenance responsibilities of the same access should be clarified with the relevant lands and maintenance authorities;
- (h) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that :
- (i) no structures should be built or materials stored within the existing Waterworks Reserve or within a 1.5m clearance horizontally from the edge of the body of an existing water main without the prior approval of the Director of Water Supplies (DWS);
  - (ii) free access should be made available at all times for staff of the DWS or their contractor to carry out construction, inspection, operation, maintenance and repair works;
  - (iii) for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards;
  - (iv) the application site was located within WSD's flood pumping gathering ground; and

- (v) water mains in the vicinity of the application site could not provide the standard pedestal hydrant; and
- (i) to follow the environmental mitigation measures as recommended in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the potential environmental impacts on the adjacent area.

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

### **Agenda Item 11**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/450      Proposed Minor Relaxation of Building Height Restriction for Permitted House Development in "Residential (Group C)" zone, Lots 897 RP and 916 S.B RP in D.D. 83 and Adjoining Government Land, Kwan Tei South, Fanling  
(RNTPC Paper No. A/NE-LYT/450)

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54.            The Secretary reported that Dr. James C.W. Lau had declared an interest in this item as he had current business dealings with Ben Yeung & Associates Ltd, the consultant of the application. The Committee noted that Dr. Lau had tendered an apology for being unable to attend the meeting.

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

55.            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 minor relaxation of building height (BH) restriction for permitted house development;
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had some reservation on the application as the proposed house development was in conflict with an existing mature tree. The site formation and construction works for the proposed development might also affect the existing trees;
- (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 (North); and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. The application was for proposed minor relaxation of the building height (BH) restriction for permitted house development within the “Residential (Group C)” (“R(C)”) zone to provide a pitch roof for installation of solar panel for electricity generation and supply of heated water. The extent of relaxation was considered minor and would unlikely result in any significant adverse impacts on the surrounding area. In this regard, concerned government departments had no adverse comments on or no objection to the application. The proposed house development with building height of two storeys of 6.5m over one storey carport was not incompatible with the surrounding land uses and would be in keeping with the low-rise, low density residential character of the surrounding area. While the Chief Engineer/Mainland North of Drainage Services Department had advised that there were two existing watercourses running along the northern boundary and western side of the site, which were considered essential to the drainage of the area, approval conditions including the submission of survey records and condition photos for the two existing watercourses, submission and implementation of drainage proposals, as well as the prohibition of erection and placement of structure including decking or support, object or obstruction in the watercourses, etc.

were recommended. To address the concerns of CTP/UD&L of PlanD from the landscape perspective, an approval condition requesting the applicants to submit and implement tree preservation and landscape proposals including tree compensatory proposals was recommended.

56. Members had no question on the application.

#### Deliberation Session

57. 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 20.1.2016, 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) no structure including any decking or support, or any object or obstruction of any kind should be erected or placed in the watercourses running along the northern boundary and western side of the application site;
- (b) areas within 3 metres of the near-side bank of watercourses should be clear of any structure or obstruction to permit free access along the watercourses at all times;
- (c) the parts of watercourses falling within the application site should be maintained structurally intact and clear of any refuse, deposits or like obstructions to ensure unimpeded flow in the watercourses;
- (d) the submission of survey records and condition photos of the two existing watercourses running along the northern boundary and western side of the application site prior to commencement of construction works of the proposed house to the satisfaction of the Director of Drainage Services or of the TPB;
- (e) the submission and implementation of drainage proposals to the satisfaction



of the Director of Drainage Services or of the TPB;

- (f) the submission and implementation of tree preservation and landscape proposals including tree compensatory proposals to the satisfaction of the Director of Planning or of the TPB; and
- (g) the submission and implementation of proposals for water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the District Lands Officer/North as follows :
  - (i) to apply to his department for a land exchange and if application was approved by his department acting in its capacity as landlord at its discretion, the approval would be subject to such terms and conditions to be imposed as the Government should deem fit to do so including, inter alia, payment of necessary fees and premium. There was no guarantee that approval for land exchange would be forthcoming;
  - (ii) there was no guarantee that the government land involved would be granted to the lot owners and even if the land was granted by the Government acting in the capacity as landlord at its discretion, the grant would be made subject to such terms and conditions to be imposed as the Government should deem fit to do so including inter alia, payment of premium;
  - (iii) the quoted total site area of 597.7m<sup>2</sup> in respect of Lots No. 897 RP and 916 S.B RP in D.D. 83 and the adjoining government land of 55.9m<sup>2</sup> in the application was subject to survey and verification at the stage of processing land exchange application, if submitted; and

- (iv) the application site and Lung Ma Road was separated by a piece of government land. There was no guarantee that a right-of-way would be granted over the concerned government land to provide a direct vehicular access to the application site;
  
- (b) to note the comments of the Commissioner for Transport that the land status of the access leading to the application site should be checked with the lands authority, and the management and maintenance responsibilities of the same access should be clarified with the relevant lands and maintenance authorities accordingly;
  
- (c) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that the works on the application site should not encroach onto the project limit of the improvement works at Lung Ma Road;
  
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department as follows :
  - (i) the applicants should allow the personnel of his department or its agents to enter upon or access through the application site for purposes of inspection of the watercourses within a notice of say, 14 days issued by his department in writing;
  
  - (ii) the application site was in an area where no public sewerage connection was available. Environmental Protection Department should be consulted regarding the sewage treatment/disposal facilities for the proposed development; and
  
  - (iii) it was noted that fence walls were proposed at the southern boundary of the application site. The applicants were reminded that where walls were erected or kerbs were laid along the boundary of the application site, peripheral channels should be provided on both sides of the walls or kerbs with details to be agreed by his

department;

(e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) as follows :

(i) the application site and Lung Ma Road were separated by a piece of government land and there was no guarantee that a right-of-way would be granted over the concerned government land. With the information available, the application site was not classified as Class A under Building (Planning) Regulations (B(P)R) 18(A). The development intensity of the application site should be determined by the Building Authority under B(P)R 19(3) at building plan submission stage;

(ii) the site should be provided with means of obtaining access thereto from a street under the B(P)R 5 and the emergency vehicular access should be provided under the B(P)R 41D; and

(iii) formal submission under the Buildings Ordinance was required for any proposed new works, detailed comments would be provided during building plan submission stage;

(f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (PlanD) as follows :

(i) as there was insufficient information regarding the proposed planters, e.g. soil depth, width, weep holes and type of plants, the anticipated landscape effects could not be ascertained. The applicants should provide information on the proposed wall planters at the landscape proposal for consideration; and

(ii) the proposed wall planters were at a considerable height, e.g. above 1.7m from ground level. The applicants should ensure that the proposed planting would be properly maintained;

- (g) to note the comments of the Director of Electrical and Mechanical Services as follows :

the applicants 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 applicants 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 PlanD, prior consultation and arrangement with the electricity supplier was necessary;
  - (ii) prior to establishing any structure within the application site, the applicants and/or their 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 applicants and their contractors when carrying out works in the vicinity of the electricity supply lines;
- (h) to note the comments of the Director of Agriculture, Fisheries and Conservation on the preservation and avoidance of disturbing any trees growing within and in the vicinity of the application site as far as possible. Should any trees be unavoidably affected, approval from relevant departments should be obtained before commencement of any tree

removal/pruning works;

- (i) to note the comments of the Director of Fire Services as follows :
  - (i) emergency vehicular access arrangement should comply with Part VI of the Code of Practice for Means of Access for Fire-fighting and Rescue administered by BD; and
  - (ii) detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans; and
- (j) to note the comments of the Chief Engineer/Development(2), Water Supplies Department as follows :
  - (i) for provision of water supply to the development, the applicants might need to extend their inside services to the nearest suitable government water mains for connection. The applicants should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards; and
  - (ii) the application site was located within the flood pumping gathering ground.

**Agenda Item 12**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-PK/27            Proposed Religious Institution including Columbarium and  
Filling of Pond in "Green Belt" zone,  
Lot 2100 (Part) in D.D. 91, Tai Lung, Ping Kong, Sheung Shui  
(RNTPC Paper No. A/NE-PK/27C)

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59. The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with Toco Planning Consultants Ltd and LLA Consultancy Ltd, the consultants of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

#### Presentation and Question Sessions

60. 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 religious institution including columbarium and filling of pond;

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

- (c) departmental comments – the Commissioner for Transport (C for T) did not support the application as the proposed development would overstrain the capacity of the existing local village track and the applicant had not demonstrated in the submission that agreement from the locals/Police on the traffic and transport arrangement had been obtained. The Commissioner of Police (C of Police) objected to the application as there were no sufficient parking facilities to avoid illegal parking along the path leading to the proposed columbarium, no sufficient lay-bys to be arranged along the path to avoid dead-block of traffic, and the overall road network needed to be improved. There was also reservation on the proposed closure of the access road during the festive days. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site was of 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 existing mature trees would be

affected. Given no information regarding the site formation had been provided, the landscape impact on the existing landform and existing stream could not be ascertained;

(d) public comments received during the various statutory publication periods were summarised as follows :

- (i) 14 public comments from three North District Council (NDC) members, two residents of Tai Lung, one individual on behalf of Cows Home, Hong Kong Bird Watching Society (HKBWS), Designing Hong Kong Ltd (DHKL), Kadoorie Farm & Botanic Garden Corporation (KFBG), World Wide Fund Hong Kong (WWF) and four individuals were received during the first three weeks of the statutory publication period, which ended on 25.1.2011. While KFBG offered views on the application from the nature conservation perspective, the remaining 13 commenters objected to the application mainly on the grounds of land use incompatibility, adverse impacts on the ecology, environment and traffic of the surrounding area, and health and safety problems posed to the villagers and the cows nearby;
- (ii) during the first three weeks of the second statutory public inspection period, which ended on 14.6.2011, seven public comments from two NDC members, HKBWS, DHKL and individuals were received. While HKBWS offered views on the application, one NDC member had reservation, the other NDC member (with the submission of 96 signatures of local villagers) and the remaining four commenters raised objection to the application on similar reasons that they had previously submitted;
- (iii) during the first three weeks of the third statutory public inspection period, which ended on 16.8.2011, six public comments against the application from a NDC member with 96 signatures of local villagers, HKBWS, two villagers of Ping Kong Village, five

individuals (objections submitted in a letter), and an individual were received. The NDC member, two villagers of Ping Kong Village and the individual objected to the application on similar grounds that they had previously submitted. HKBWS objected to the application as it would set an undesirable precedent for similar applications and the cumulative impact would lead to habitat loss and adverse ecological impact. The objection grounds stated in the objection letter submitted by the five individuals included that the subject Tin Hau Temple in the application was a temporary structure only; burning of incense papers and joss sticks would lead to air pollution; and the proposed development would worsen the traffic conditions in the locality;

- (iv) during the first three weeks of the fourth statutory public inspection period, which ended on 9.12.2011, 12 public comments from two NDC members (of which one submitted with 96 signatures of local villagers), Village Representative of Ping Kong Village, eight villagers of Ping Kong Village and an individual were received. One NDC member indicated reservation on the application as it would affect the daily life of nearby residents while the remaining 11 commenters objected to the application on grounds that the proposed development would result in reduction of the “Green Belt” (“GB”) zone in the vicinity; no agreement on the usage of the vehicular access had been made with the villagers; the proposed columbarium would affect the residents’ health and livelihood; the proposed development would result in the usage of government resources for traffic and crowd control during the festive seasons; and no application for columbarium should be processed before the legislation of columbarium policy by the Government; and
- (v) during the first three weeks of the fifth statutory public inspection period, which ended on 6.1.2012, nine public comments from two NDC members, Indigenous Inhabitants Representative (IIR) of Ping Kong Village, villagers of Ping Kong Village and Tai Lung, and five



individuals were received. While one NDC member raised reservation on the application, a group of residents in Tai Lung had expressed concerns on the traffic aspect of the proposed development and indicated that there were frequent landslides in the area. The other commenters objected to the application mainly on the grounds of their concerns on the damages to the rural landscape, the adverse impacts on the environment, traffic and ecology, and the fire and safety risk brought about by the proposed development;

- (e) the District Officer (North) (DO(N)) advised that the Chairman of Sheung Shui District Rural Committee had no comment on the application while the Residents Representative (RR) of Ng Uk Tsuen indicated support for the application. The concerned NDC member, the IIR and RR of Ping Kong, IIR of Ng Uk Tsuen and villagers of Ping Kong raised strong objection to the application mainly on the grounds that the proposed development would affect the rural and tranquil living environment of the residents nearby; the “GB” zone would be affected and the ecology would be destroyed; the proposed development would lead to adverse impacts on the sewage, traffic and environment of the area; and the ‘fung-shui’ of the area would be affected; and
- (f) 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 summarised below :
  - (i) the proposed development was to redevelop the existing temporary structure of Tin Hau Temple in a new location with construction of two ancillary columbarium structures. However, both DO(N) and the Secretary for Home Affairs had little information about the status and history of the subject temple. The proposed temple would have a GFA of 65m<sup>2</sup> and the proposed columbarium use providing a total of 5,000 niches would have a GFA of 260m<sup>2</sup>. As such, it was considered that the predominant use of the development scheme should be columbarium instead of religious institution with ancillary

columbarium;

- (ii) the proposed development was not in line with the planning intention of the “GB” zone as there was a general presumption against development within this zone and there were no strong planning justifications in the submission for a departure from the planning intention. It also did not comply with the TPB Guidelines No. 10 in that the proposed development would affect the existing natural landscape and overstrain the capacity of existing local village track;
- (iii) CTP/UD&L of PlanD had reservation on the application on the grounds that existing mature trees within the site would likely be removed; there was no information regarding the proposed site formation, and the landscape impact on the existing landform and the existing stream could not be ascertained. DAFC also did not support the application as the application site was of high potential for rehabilitation of agricultural activities;
- (iv) the site was only accessible via a non-standard single track leading from Fan Kam Road. C for T did not support the application as the proposed development would overstrain the capacity of the existing local village track if no special traffic and transport arrangement was implemented. Besides, the applicant had not demonstrated the feasibility of implementing the traffic and crowd control measures by seeking agreement from the locals/ Police. C of P also had reservation on the proposed partial road closure of the access road during the festive days;
- (v) although the proposed filling of a man-made pond within the site would not have significant adverse drainage and ecological impacts on the surrounding area, given the proposed development was considered not in line with the planning intention of the “GB” zone and might cause adverse traffic impacts on the surrounding area, the

proposed filling of pond was also not supported;

- (vi) there was no similar application within the same “GB” zone in the vicinity of the site. Approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such similar applications would undermine the intactness of the “GB” zone resulting in a general degradation of the environment of the area; and
- (vii) there were strong local objections and public comments against the application mainly on traffic, landscape, ecological, environmental, drainage, sewerage and geotechnical grounds.

61. In response to the Chairman’s enquiry, Ms. Doris S.Y. Ting said that Ng Uk Tsuen, the RR of which indicated support for the application, was situated near Sheung Shui Town and was a long distance away from the application site.

#### Deliberation Session

62. 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 “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. There was no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed development did not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance in that the proposed

development would affect the existing natural landscape and would overstrain the capacity of existing local village track;

- (c) the application site was only accessible via a non-standard narrow and winding single track leading from Fan Kam Road which was not designed for heavy traffic. The applicant had failed to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding area; and
- (d) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such similar applications would undermine the intactness of the “GB” zone resulting in a general degradation of the environment of the area.

### **Agenda Item 13**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LT/446            Proposed House (New Territories Exempted House - Small House)  
in “Agriculture” zone,  
Lot 253 RP in D.D. 8, Tai Yeung Che Village, Lam Tsuen, Tai Po  
(RNTPC Paper No. A/NE-LT/446)

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

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

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

- (c) departmental comments – the District Lands Officer/Tai Po (DLO/TP) did not support the application as over 90% of the Small House’s footprint fell outside the village ‘environs’ (‘VE’) of Tai Mong Che Village. The Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on 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 upper indirect water gathering ground (WGG) but was not able to be connected to the planned public sewerage system. The Director of Environmental Protection (DEP) did not support the application as the sewage discharge from the proposed house would have potential to cause water pollution to the WGG. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as the construction of the proposed Small House would require removal of some of the woodland trees causing adverse impact on the landscape resources. The Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) raised objection to the application and pointed out that the site was overlooked by steep natural hillside and met the Alert Criteria for the undertaking of a Natural Terrain Hazard Study (NTHS);
- (d) one public comment from a Tai Yeung Che villager in two letters was received during the first three weeks of the statutory publication period. The commenter raised concern that the proposed development was not within the “Village Type Development” (“V”) zone and would destroy the woodland nearby, affect the slope stability, the landscape of the area and ‘fung-shui’ of his ancestors’ grave. The commenter further worried that the proposed Small House would have adverse impact on the environment, traffic and fire safety of the area; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessment made in paragraph 11 of the Paper. Although the land available within the “V” zone could not fully meet the

future Small House demand, the proposed Small House 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 "V" zone and more than 50% fell outside the 'VE' of Tai Mong Che Village. In this regard, DLO/TP did not support the application. The Chief Engineer/Project Management of Drainage Services Department advised that public sewers would be laid and the applicant theoretically could extend his sewer via government land and/or private lots to the proposed public sewers by himself. Nevertheless, a septic tank was proposed to be used for sewage disposal and there was no information in the submission to demonstrate that the proposed Small House could be connected to the planned sewerage system in the area. As the sewage discharge from the proposed house would have potential to cause water pollution to the WGG, both DEP and CE/Dev(2) of WSD did not support the application. Besides, DAFC did not support the application as the site has high potential for agricultural rehabilitation. The application site was located at the edge of a densely wooded natural slope. CTP/UD&L of PlanD objected to the application from the landscape planning point of view. Furthermore, H(GEO) of CEDD advised that the applicant was required to undertake a NTHS and provide suitable mitigation measures as necessary. There was one public comment against the application on the grounds that the proposed development was not within the "V" zone and the proposed development would destroy the woodland nearby, affect slope stability, the landscape of the area and the 'fung-shui' of his ancestors' grave.

64. Members had no question on the application.

#### Deliberation Session

65. Noting that H(GEO) of CEDD had an in-principle objection to the application in view of its close proximity to steep hillside, Members agreed that an additional reason to that respect should be added in rejecting the application.

66. After further 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 agreed that the reasons should be suitably amended to reflect Members' views as expressed at the meeting. The reasons were :

- (a) the proposed development was not in line with the planning intention of the "Agriculture" zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention;
- (b) the proposed development 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 Type Development" zone and more than 50% of the proposed Small House footprint was located outside the village 'environs' of Tai Mong Che Village;
- (c) the proposed development did not comply with the Interim Criteria in that the proposed Small House within the upper indirect Water gathering Ground (WGG) might not be able to be connected to the planned public sewers in the area. The applicant had failed to demonstrate in the submission that the proposed development located within the WGG would not cause adverse impact on the water quality in the area; and
- (d) the proposed development did not comply with the Interim Criteria in that there was no information in the submission to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding area.

**Agenda Item 14**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-SSH/79            Proposed House (New Territories Exempted House - Small House)  
in “Government, Institution or Community” and “Village Type  
Development” zones, Lots 280 RP and 300 RP in D.D. 209,  
Sai Keng Village, Shap Sz Heung, Sai Kung North  
(RNTPC Paper No. A/NE-SSH/79)

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**Presentation and Question Sessions**

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

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small House);
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (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
- (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. There was insufficient land in the “Village Type Development” (“V”) zone of Sai Keng Village to meet the future Small House demand. The proposed Small House was not incompatible with the village setting surrounding the site. The previous application No. A/NE-SSH/65 was rejected by the Committee in 2009 mainly on the grounds of incompliance



with the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories' (the Interim Criteria) in that more than 50% of the Small House footprint was outside the village 'environs' and "V" zone of the recognised village and approval of the application would set an undesirable precedent for other similar applications in the "Government, Institution or Community" ("G/IC") zone and jeopardise the provision of GIC facilities in the district. The Small House footprint in the current application had been revised and reduced in size and more than 50% of it fell within the "V" zone. The current application complied with the Interim Criteria in that there was a general shortage of land in meeting the demand for Small House development. The proposed development was unlikely to have significant adverse impacts on the surrounding area and relevant government departments had no comment on and no local objection was received on the application. While the proposed Small House would encroach onto land zoned "G/IC", there was no designated use for the "G/IC" zone and the encroachment of about 62m<sup>2</sup> at the fringe of the "G/IC" zone would unlikely affect the provision of GIC facilities in the district. In this regard, the proposal was considered not in conflict with the TPB Guidelines No. 16 as the proposed development would unlikely adversely affect the provision of GIC facilities in the district on a long-term basis. Besides, the approval of the application was in line with the previous decisions of the Committee on other Small House developments.

68. Members had no question on the application.

#### Deliberation Session

69. 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 20.1.2016, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;
- (b) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the TPB; and
- (c) 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.

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

- (a) to note the comments of the District Lands Officer/Tai Po (DLO/TP) that after planning approval had been given by the Board, his office would process the Small House application. If the Small House application was approved by Lands Department (LandsD) acting in the capacity as landlord at its sole discretion, such approval would be subject to the terms and conditions as imposed by LandsD;
- (b) to note comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that there were no existing DSD maintained public stormwater drains available for connection in the area. The applicant was required to maintain his drainage 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;
- (c) for works to be undertaken outside the lot boundary, the applicant should consult DLO/TP and seek consent from relevant lot owners before commencement of the drainage works;
- (d) public sewerage connection was not available for the site and the applicant should consult Environmental Protection Department regarding the sewage

treatment/disposal aspects of the development and the provision of septic tank;

- (e) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that for provision of water supply to the proposed 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. Water mains in the vicinity of the site could not provide the standard pedestal hydrant;
- (f) 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 LandsD; 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) 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
  - (ii) 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 15**

**Section 16 Application**

[Open Meeting]

A/NE-TK/370

Proposed Two Houses

(New Territories Exempted Houses - Small Houses)

in “Green Belt” and “Village Type Development” zones,

Lots 518 s.A ss.15 (Part), ss.16, ss.17 and RP (Part) in D.D. 26

and Adjoining Government Land, Shuen Wan Lei Uk, Tai Po

(RNTPC Paper No. A/NE-TK/370A)

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71. The Secretary reported that Ms. Anna S.Y. Kwong, having current business dealings with Arthur Yung and Associates Ltd, and Dr. James C.W. Lau, having current business dealings with C.M. Wong & Associates Ltd, had declared interests in this item as the two firms were the consultants of the application. The Committee noted that Dr. Lau had tendered apology for being unable to attend the meeting. As the applicant had requested for a deferment of consideration of the application, the Committee agreed that Ms. Kwong was allowed to stay in the meeting.

72. The Committee noted that the applicant’s representative requested on 30.12.2011 for a deferment of the consideration of the application for two more months as additional time was required for carrying out site surveys and the formation, preparation and refinement of the landscape proposals in order to address departmental comments on landscape and visual aspects and various technical issues regarding the proposed development.

73. 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 the further information, and as a total period of four months had been allowed, no further deferment would be granted unless under very special circumstances.

[Professor Paul K.S. Lam left the meeting and Dr. W.K. Lo left the meeting temporarily at this point.]

### **Agenda Item 16**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TK/379            Proposed House (New Territories Exempted House - Small House)  
                              in “Green Belt” zone,  
                              Government Land in D.D. 27, Sha Lan Village, Tai Po  
                              (RNTPC Paper No. A/NE-TK/379)

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

74.            Ms. Lisa L.S. Cheng, STP/STN, said that replacement page 8 of the Paper was 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 house (New Territories Exempted House (NTEH) – Small House);
- (c) departmental comments – the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) commented that the site was a geotechnically difficult site and if the applicant wished to proceed with the proposed development, a Geotechnical Planning Review Report (GPRR) should be submitted to assess its geotechnical feasibility. The District Lands Officer/Tai Po

(DLO/TP) did not support the application as the land entitlement of the site was unclear. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had strong reservation on the application as there was no information in the submission to demonstrate the scope of the site formation and its potential impact on the existing landscape resources. The approval of the application would lead to further encroachment onto the “Green Belt” (“GB”) resulting in further degradation of landscape quality and urban sprawl in the area;

- (d) three public comments against the application were received during the first three weeks of the statutory publication period. While one of the comments, submitted by the Indigenous Inhabitants Representative of Sha Lan, raised concerns on the application on the ‘fung-shui’ ground as it was the villager’s tradition to build Small House of not more than 18 feet above ground level, the other two comments, submitted by the Chairlady of Sha Lan Villas Residents Association and a resident, objected to the application mainly on the grounds of adverse traffic, environmental, visual, landscape and geotechnical impacts on the surrounding area; and

[Dr. W.K. Lo returned to join the meeting at this point.]

- (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 the site fell entirely within the village ‘environs’ (‘VE’) and there was a general shortage of land in meeting the Small House demand, the proposed Small House did not meet the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ (the Interim Criteria) and not comply with the TPB Guidelines No. 10 in that there would probably be geotechnical difficulties in the proposed development. As the site was located at the bottom of a slope feature and was next to a NTEH which had encountered geotechnical difficulties in its site formation works, the H(GEO) of CEDD envisaged that the proposed development would encounter similar geotechnical problems. He also advised that an alternative site should be considered or the applicant should submit a

GPRR to assess its geotechnical feasibility. However, no such report had been submitted by the applicant. The CTP/UD&L of PlanD also did not support the application and raised concerns on the potential impacts on existing landscape resources and the cumulative impact of Small House development on the remaining green belt. Besides, public comments against the application were received raising concerns on the adverse traffic, environmental, visual, landscape and geotechnical impacts caused by the proposed development on the surrounding area.

75. Noting that a similar Small House application at Lot 236 in D.D. 27 (Application No. A/NE-TK117), which was situated immediately next to the application site with a similar site condition, was approved by the Committee, a Member asked if it would be unfair to reject the current application. Ms. Lisa L.S. Cheng replied that previously application at the adjacent site was approved in 1999 and no geotechnical investigation was undertaken at that time. As the implementation of the Small House development had revealed the geotechnical problem at Lot 236, and the site formation works had to be suspended because of that, H(GEO) of CEDD considered that the site under application might encounter similar geotechnical difficulties. In view of this fundamental problem, the application was not supported.

76. Another Member said that the application site was not unsuitable for Small House development given the rural setting of the environment and the presence of other Small Houses in its vicinity. Noting the objection by concerned government department on the geotechnical aspect, the applicant might appoint a consultant to carry out the necessary assessment and submit an application for the consideration of the Board.

#### Deliberation Session

77. After deliberation, the Committee decided to reject the application. Members then went through the reason for rejection as stated in paragraph 13.1 of the Paper and considered that it was appropriate. The reason was that the application did not comply with the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories' and the Town Planning Board Guidelines for 'Application for Development within "Green Belt" zone under section 16 of the Town Planning Ordinance' in that the

proposed development would cause adverse geotechnical and landscape impacts on the surrounding development. There was no information in the submission to address the geotechnical and landscape concerns.

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

### **Tuen Mun and Yuen Long District**

[Mr. C.C. Lau, Mr. Vincent T.K. Lai, Mr. K.C. Kan, Mr. Ernest C.M. Fung and Mr. W.W. Chan, Senior Town Planners/Tuen Mun and Yuen Long (STPs/TMYL), were invited to the meeting at this point.]

#### **Agenda Item 17**

##### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TM/423	Proposed Minor Relaxation of Maximum Gross Floor Area from 2,308m <sup>2</sup> to 2,382.72m <sup>2</sup> for permitted Restaurant Use in "Other Specified Uses" annotated "Restaurant/Commercial Complex" zone, No. 5 Sam Shing Street, Castle Peak Bay, Tuen Mun (RNTPC Paper No. A/TM/423)
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##### **Presentation and Question Sessions**

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

- (a) background to the application;
- (b) the proposed minor relaxation of maximum gross floor area (GFA) from



2,308m<sup>2</sup> to 2,382.72m<sup>2</sup> for permitted restaurant use;

- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as the existing pedestrian passage would be blocked by the proposed extension part, or even the entire planter including the existing trees and shrubs would likely be removed for the passage but no information regarding the trees and shrubs and tree preservation or landscape proposal had been submitted. It was further pointed out that there were no strong design merits in the proposed scheme to substantiate the minor relaxation sought;
- (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 (Tuen Mun); and

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

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 11 of the Paper. The current application was for minor relaxation of GFA restriction for permitted restaurant use and the site was the subject of a previous application No. A/TM/406 rejected by the Committee on 23.12.2010. Compared with the previous scheme, the current extension portion of the existing building was confined to G/F only and the proposed GFA relaxation had been reduced to 2,382.72m<sup>2</sup>. Although when compared with the rejected scheme, the current proposal had reduced in scale and the proposed relaxation of plot ratio was from 2 to 2.0651, it should be noted that the OZP GFA restriction of 2,308m<sup>2</sup> for the subject site was firstly incorporated in the Tuen Mun OZP in 2009 in accordance with the lease conditions. The subject site was located in an area along the coast and was adjoining the Castle Peak Beach. A plot ratio of 2 was considered not low for a development of this kind given the site's prominent waterfront location. The lease conditions, as-built situation, and the prominent

positioning of the site at the waterfront were taken into account in the stipulation of the development intensity restriction. Hence any increase in development intensity would need to be fully justified and each proposal would be considered on its individual merits. The applicant claimed that the minor relaxation was for straightening out the zigzag façade of the existing building in order to better utilize the internal spaces. However, he had not provided any innovative design justification for the relaxation sought, apart from indicating that planters would be added to decorate the balcony to echo with the surrounding environment. In fact, the existing building had an interesting zigzag façade as viewed from the Castle Peak Beach. The proposed extension at G/F would reduce the visual interest of the building. In this connection, CTP/UD&L of PlanD commented that the applicant had not demonstrated any strong design merits to substantiate the minor GFA relaxation sought. There was also reservation on the proposed extension as the existing landscape character and resources would be disturbed, but no information regarding tree preservation or landscape proposal was submitted. Moreover, the application for minor relaxation of GFA, if approved, would set undesirable precedent for similar applications for additional GFA, the cumulative effect of which would adversely affect the built form of developments along the waterfront.

79. Members had no question on the application.

#### Deliberation Session

80. The Chairman stated that although concerned government departments in general had no objection to the proposed minor relaxation of GFA restriction, no design or planning merits had been provided by the applicant to justify the proposed relaxation. The objectives of imposing GFA/plot ratio restriction were to provide better control on the building bulk of a development so as to improve the living environment. The approval of the application had a wide implication as it would set an undesirable precedent not only for similar applications along the waterfront but other areas in the territory. Members agreed.

81. After further 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) given that plot ratio of 2 at this prominent seaside location was not low, the applicant had not provided strong planning justifications for the proposed relaxation of gross floor area (GFA) from 2,308m<sup>2</sup> to 2,382.72m<sup>2</sup>;
- (b) the proposed relaxation of the GFA restriction would result in straightening the zigzag façade of the existing building and diminishing the interesting outlook of the existing building, especially when viewed from the Castle Peak Beach. No information had been provided in the submission to demonstrate that the resultant built form would not reduce the visual interest of the existing building façade or generate adverse landscape impact; and
- (c) the approval of the application would set an undesirable precedent for other similar applications for relaxation of GFA restriction in the area. The cumulative effect of approving such applications would adversely affect the built form of developments in the area.

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

### **Agenda Item 18**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TM/424

Proposed Office in “Industrial” zone,

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

(RNTPC Paper No. A/TM/424)

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82. 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, the consultant of the application. As Ms. Kwong had no direct involvement in the subject application, the

Committee agreed that she could stay in the meeting.

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the proposed office;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) one public comment from an individual was received during the first three weeks of the statutory publication period, which ended on 29.10.2011. The commenter supported the application as it could meet the need of the future development of Tuen Mun New Town and was in line with the District Council's expectation. During the first three weeks of the second statutory public inspection period, which ended on 10.1.2012, three public comments from an individual and two commenters with no identities were received. One commenter supported the application because it could help revitalise the existing industrial buildings within the Tuen Mun District while the other two commenters objected to the application on the grounds that approval of the application would lead to rapid rise of his operation cost and further speculation in the property market, and there might not be adequate infrastructure to support the proposed development; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment made in paragraph 11 of the Paper. The planning intention of the "Industrial" ("I") zone was to reserve land primarily for general industrial uses but commercial uses in industrial buildings within the "I" zone might be permitted on application to the Board. The proposed office was considered not incompatible with the

adjacent land uses. Relevant government departments consulted had no comment on/objection to the application. Nevertheless, to ensure that the proposed car parking spaces within the proposed development could fulfil the relevant requirements, an approval condition requiring the design and provision of parking facilities to the satisfaction of the Commissioner for Transport was proposed. Two previous applications (No. A/TM/328 and A/TM/346) for office use were rejected by the Committee on 10.6.2005 and 17.3.2006 respectively since the proposed use was not in line with the planning intention of “I” zone and the Director-General of Trade and Industry (DG of TI) had reservation on the applications at that time. However, the Government had introduced new policy measures to encourage redevelopment or wholesale conversion of industrial buildings in 2010. The industrial building, over 30 years in age and wholly owned by the applicant, was considered in line with the Government’s policy. In this regard, DG of TI had no comment on the current application. Similar applications (No. A/TM/403, A/TM/413 and A/TM/420) in the vicinity had also been approved by the Committee in 2011. There were four public comments received on the application. While an individual submitted two comments indicating support for the application, the remaining two commenters objected to the application mainly in fear of the rise in property price and operation cost due to approval of the application. They also doubted the adequacy of infrastructural support for the proposed development. Nevertheless, it should be noted that concerned government departments had no objection to/adverse comment on the application.

84. A Member, while indicating no objection to the application, asked whether there were any other similar applications for wholesale conversion of industrial buildings. In response, Mr. C.C. Lau, by referring to Plan A-1 of the Paper, said that apart from the current application, three similar planning applications (No. A/TM/403, 413 and 420) had been approved in the “I” zone nearby.

85. Upon the enquiry of the Chairman, Mr. C.C. Lau said that according to a recent site inspection, the subject industrial building was mainly used for factories/workshops and warehouse purposes. Site photos showing the existing uses within the subject industrial

building were included in Plan A-4f of the Paper for Members' reference.

### Deliberation Session

86. 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 20.1.2016, 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 fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (b) the design and provision of parking facilities, loading/unloading spaces and lay-bys for the proposed development to the satisfaction of the Commissioner for Transport or of the TPB.

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

- (a) to note the comments of the District Lands Officer/Tuen Mun that if planning approval was given, the applicant should apply for lease modification or temporary waiver for the proposed uses. The proposal would only be considered upon the receipt of formal application from the applicant. There was no guarantee that the application, if received, 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 of premium, waiver fee and administrative fee;
- (b) to note the comments of the Director of Environmental Protection that the applicant should observe the relevant pollution control ordinances in

implementing the proposal;

- (c) 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. If any run-in/out was approved by the Commissioner for Transport, the applicant should construct it according to HyD's standard drawings numbers H1113 and H1114, or H5133, H5134 and H5135 to match the existing pavement condition. In addition, adequate drainage measures should be provided at the entrance to prevent surface water flowing out from the lot onto the public road/footpath via the run-in/out;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that there should be provision of refuge floor in accordance with paragraph 21 of Code of Practice for the Provision of Means of Escape in Case of Fire 1996. It should be demonstrated that the provisions for persons with disability should be complied with Building (Planning) Regulations 72. Plans for alteration and addition works complying with the Buildings Ordinance (BO) and allied regulations in connection with the proposed change of use were to be submitted to the Building Authority for approval under the BO; and
- (e) to note the comments of the Director of Fire Services on the provision of fire service installations and water supplies for fire-fighting to his satisfaction. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and the emergency vehicular access provision should comply with the standard as stipulated in Part VI of the Code of Practice for Means of Access for Fire-fighting and Rescue which was administrated by BD.

**Agenda Item 19**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TSW/53                      Proposed Temporary Social Welfare Facility, Eating Place  
(plus Drive-Thru), Exhibition, Training Centre, Residential Institution,  
Shop and Services and Public Convenience for a Period of 10 Years  
in “Comprehensive Development Area” and “Government, Institution  
or Community” zones, Government Land in Tin Shui Wai Area 112  
(RNTPC Paper No. A/TSW/53)

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88.            The Secretary reported that the application was submitted by the Hong Kong Housing Society (HKHS) and the following Members had declared interests in this item :

- |   |   |   |
|---|---|---|
| Mr. Jimmy C.F. Leung<br>as the Director of Planning                               | - | being a member of the Supervisory Board of HKHS   |
| Ms. Anita K.F. Lam<br>as the Assistant Director/New Territories, Lands Department | - | being an alternate member for the Director of Lands who was a member of the Supervisory Board of HKHS |
| Mr. Walter K.L. Chan  | - | being a member of the Executive Committee of HKHS   |
| Mr. B.W. Chan   | - | being a member of the Supervisory Board of HKHS   |
| Mr. Timothy K.W. Ma   | - | being a member of the Supervisory Board of HKHS   |
| Mr. Y.K. Cheng  | - | being a member of HKHS  |

89.            The Secretary said that as both the Chairman and the Vice-chairman had declared interest in the item, according to the Procedure and Practice of the TPB, the Chairman could continue to chair the meeting out of necessity. Members agreed. The Committee noted that Mr. Timothy K.W. Ma had left the meeting already and agreed that Ms. Lam, Mr. Walter K.L. Chan, Mr. B.W. Chan and Mr. Cheng should leave the meeting temporarily.

90.            The Secretary also 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, one of the consultants of the application. The Committee noted that Mr. Yip had tendered apology for being unable to attend the meeting. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

91. The Secretary reported that the TPB Secretariat had received a copy of a press release before the meeting. The press release, raising objection to the application, was jointly issued by a number of local concern groups, including the Community Development Alliance, the Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (New Territories) and the Alliance on Promotion of Economic Development in Tin Shui Wai. In the press release, the concern groups commented that the Government should not allow HKHS to use the site for large-scale training centre and the tenure should not be extended from five years to ten years. The development scheme could not enhance the local economy and create employment opportunities for Tin Shui Wai residents. The concern groups requested that the open-air market use proposed in HKHS's scheme should be operated during normal days and holidays instead of operating at the car park on holidays only. It was raised that the greenhouse occupying not more than 1,826m<sup>2</sup> was too small and should be enlarged and open for the residents of Tin Shui Wai for planting. Besides, the establishment of the training centre, without the provision of adequate employment opportunities, could not solve the unemployment problem in Tin Shui Wai. These concern groups requested the TPB to extend the public consultation period of the subject application; HKHS to withdraw the application and undertake the local public consultation again; and sufficient fund should be reserved in the next year's financial budget so as to enhance the economy of remote districts including Tin Shui Wai and Tung Chung. Copies of the press release received were tabled at the meeting for Members' reference.

#### Presentation and Question Sessions

92. Mr. Vincent T.K. Lai, STP/TMYL, said that replacement pages 18 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 proposed temporary social welfare facility, eating place (plus drive-thru), exhibition, training centre, residential institution, shops and services and public convenience for a period of ten years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the applications;
- (d) six public comments were received during the first three weeks of the statutory publication period. A concern group indicated support for the application and commented that certain amount of space should be reserved for on-street hawkers and a green buffer along the northern side of the site should be created. A member of a green group commented that mitigation measures should be adopted to prevent bird collision into the transparent materials which would be used on the building structures. The other commenters, submitted by a social worker, two local concern groups, and a member of a religious organisation raised concerns on the proposed development of a vocational centre at the site and suggested to develop it for commercial use, the proposed development might not be able to ease the unemployment problem in Tin Shui Wai, and commented that the public consultation period should be extended. The District Officer (Yuen Long) (DO(YL)) advised that, in view of the deep concern and possible objections raised by the local community, extensive consultation regarding the temporary uses under application should be conducted. Besides, a District Council (DC) member commented that insufficient time had been given to him to consult the concerned residents; and
- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary uses under application could be tolerated for a period of ten years based on the assessment made in paragraph 13 of the Paper, which were summarised below :
  - (i) despite that the approval was sought on a temporary basis, the planning assessments were made as if the proposed development was on a permanent basis, taking into account the duration period

applied for which was as long as ten years. The site, zoned mainly “Comprehensive Development Area” (“CDA”) and partly “Government, Institution or Community” (“G/IC”), was located at the north-eastern fringe of Tin Shui Wai New Town. The proposed temporary uses under application were considered not in conflict with the planning intention. The proposed plot ratio of about 0.169 and a maximum building height of one storey also complied with the plot ratio and building height restrictions for the “CDA” zone. There was no development programme at the “G/IC” zone;

- (ii) according to the submitted master layout plan (MLP), 31 single-storey blocks would be provided. The more passive uses were located nearer the Hong Kong Wetland Park (HKWP), while uses which were intended to draw in more visitors, such as the eating place and shops, were sited away from the HKWP. Various technical assessments had been submitted to support the application. Concerned government departments had no objection to the application and the proposed MLP was in general acceptable;
- (iii) the site was subject to an endorsed planning brief setting out the design criteria for the site and the proposed development generally complied with the various design criteria in terms of avoiding adverse impacts on the HKWP, providing visual transition between the new town and wetland area, no adverse impact on air ventilation, greening and landscaping opportunities, and ameliorating noise nuisance;
- (iv) it was considered that the proposed temporary development would unlikely impose significant adverse impacts, including ecological, traffic, drainage, visual and environmental impacts to the surrounding area. Relevant government departments consulted had no adverse comment on or no objection to the application. The technical concerns of departments could be addressed by stipulating relevant approval conditions. As there would not be any significant

negative off-site disturbance impact on the ecological value of the fishponds within the Wetland Conservation Area, the proposed development was also in line with the TPB Guidelines No. 12B; and

- (v) regarding the public concern on the inadequate public consultation, it should be noted that public consultation was conducted according to the Town Planning Ordinance. As for the effectiveness of the proposed facilities, the DO(YL), Director of Food and Environmental Hygiene, Director of Social Welfare and Secretary for Food and Health had no objection to or adverse comment on the application. Nevertheless, in view of DO(YL)'s comments on the application, the applicant should be advised to liaise with the locals to explain the proposed development and to address their concerns.

93. Members had no question on the application.

#### Deliberation Session

94. The Secretary explained the background of the application to Members. She said that though the applicant sought approval for the proposed development on a temporary basis, the planning assessments were made as if the proposed development was a permanent development because according to the Notes of the OZP, temporary uses exceeding five years had to conform to the zoning requirement. It had no relation with the decision to extend the tenure from five years to ten years. With respect to the local concern groups' request to extend the public consultation period for the subject application, it should be noted that the consultation period was set in accordance with the provisions of the Town Planning Ordinance. On the other hand, whether the applicant, i.e. HKHS, would withdraw its application should be up to the applicant but not the Board. The request for the Government to set aside funds in the financial budget to enhance the economy of remote districts was outside the jurisdiction of the Board.

95. In view of the above, the Secretary said that Members should decide whether the site was suitable for the proposed temporary uses under application for ten years and whether the proposed development would have adverse impacts on the surrounding area, in particular

the wetland park.

96. A Member, by referring to the public comments received during the public consultation period, noted that there seemed to be strong objections from the local community on the application and enquired whether the HKHS's development proposal was responding to the needs of the Tin Shui Wai residents. In this respect, that Member doubted whether there were sufficient planning merits to justify the development proposal submitted by the applicant.

97. The Secretary explained that as reflected in the press release received before the meeting, the residents of Tin Shui Wai were mainly concerned about the high rent to be charged but this issue was not a relevant consideration of the Committee. With respect to the views that the site should not be used as a training centre, it should be noted that the temporary uses under application were aiming at adding vibrancy to and enhancing the local economy with a view to creating employment opportunities in Tin Shui Wai.

98. Upon the invitation of the Chairman, Mr. Vincent T.K. Lai, by referring to the MLP as shown on Drawing A-1 of the Paper, explained that the proposed temporary uses would include an elderly resource centre to cope with the needs of the elderly related to home safety, living habits and physical conditions as a result of aging, a wellness centre to promote the health care and physical well-being of the elderly in the community, a vocational training centre to provide training on elderly care, tourism, catering and medical care services, and some commercial facilities for small scale shops and services to provide opportunities for start-up businesses. In addition, the parking area might accommodate an open-air market to be operated during weekends and holidays with a view to increasing the vibrancy and social atmosphere of the site. An eating place would also be provided to serve the public.

99. In response to the question of a Member, the Secretary clarified that DO(YL) only reflected the views of one DC member who considered that there was insufficient time for him to consult the concerned residents.

100. A Member said that despite objections were received on the application, the application was considered acceptable from the town planning perspective and hence could be approved. That Member was of the view that the application was in fact responding to

the aspirations of the community and could help add vibrancy to the local economy and provide employment opportunities to the Tin Shui Wai residents.

101. The views were shared by another Member, who considered that the applicant should strengthen communication with the locals to address their concerns. The Secretary said that an advisory clause had been recommended requesting the applicant to liaise with the locals/local organisations to explain to them the details of the development proposal and to address their concerns.

102. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 10 years, up to 20.1.2022, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission and implementation of revised Master Layout Plan (MLP), taking into account the approval conditions below to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission and implementation of Landscape Proposal including the tree preservation proposal to the satisfaction of the Director of Planning or of the TPB;
- (c) the submission and implementation of environmental mitigation measures to the satisfaction of the Director of Environmental Protection or of the TPB;
- (d) the design and provision of vehicular ingress and egress points to the application site in particular the related modifications to the existing road features such as footpath, cycle tracks and planter walls to the satisfaction of the Director of Highways or of the TPB;
- (e) the provision of water supplies for fire-fighting and fire service installations and the design and provision of emergency vehicular access to the satisfaction of the Director of Fire Services or of the TPB; and

- (f) the submission of revised Ecological Impact Assessment (EcoIA) and implementation of ecological mitigation measures suggested in the revised EcoIA to the satisfaction of Director of Agriculture, Fisheries and Conservation or of the TPB.

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

- (a) the approved master layout plan (MLP), together with the set of approval conditions, would be certified by the Chairman of the TPB and deposited in the Land Registry in accordance with section 4(A)(3) of the Town Planning Ordinance. Efforts should be made to incorporate the relevant approval conditions into a revised MLP for deposition in the Land Registry as soon as practicable;
- (b) to note the comments of the District Lands Officer/Yuen Long (DLO/YL) that Short Term Tenancy (STT) could only be granted for a term of not more than 7 years. Any grant beyond the 7 years' limit would no longer be regarded as STT. Separate consideration had to be given for an appropriate means of land grant to cover the current proposal under application. If planning approval was given, the applicant would need to apply to the Lands Department (LandsD) for a land grant by way of private treaty. Land grant application would only be considered upon receipt of formal application to DLO/YL by the applicant but there was no guarantee that the application for a private treaty grant would be approved. Such application would be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event any such application was approved, it would be subject to such terms and conditions including the payment of premium and administrative fee, if any, as might be imposed by LandsD. The proposed land grant by private treaty might require policy approval. Furthermore, the existing toilets within the site were provided to facilitate temporary use but not for use of the general public which should not be used as public convenience;
- (c) to note the comments of the Chief Highway Engineer/New Territories West,

Highways Department (HyD) that the access arrangement to the application site from Tin Shui Road should be approved by Transport Department and the applicant should construct an interception channel at the site entrance to prevent run-off flowing out from the site to nearby public roads and drains through the access points. Moreover, HyD should not be responsible for the maintenance of any vehicular access between the application site and Tin Shui Road;

- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the applicant should provide his own drainage facilities to collect the runoff generated from the site or passing through the site, and discharge the runoff collected to a proper discharge point. The proposed development should not obstruct overland flow or cause any adverse drainage impact on the adjacent areas and existing drainage facilities;
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation that the applicant's commitment on restriction of construction works during night time hours and avoidance of lighting along the hoarding/barriers near the Hong Kong Wetland Park should be reflected in the Ecological Impact Assessment;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that proper buffer planting/greening should be proposed where appropriate along the area that might generate noisy activities and the applicant should maximising the greening and landscaping opportunities in the landscape submission;
- (g) 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 and the emergency vehicular access provision in the captioned site should comply with the standard as stipulated in the Part VI of the Code of Practice for Means of Access for Fire-fighting and Rescue under



the Building (Planning) Regulations 41D;

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that if building plans were to be submitted in future to tally with the MLP, such submission would constitute major revision of plans and QBE requirements and the new gross floor area (GFA) concession policy would be applicable to the site;
- (i) to note the comments of the Secretary for Food and Health (SFH) that should health care facilities be included in the proposed development at a later stage, SFH should be consulted in advance before working out the details of service provision in order to avoid overlapping of services with the other healthcare facilities in Tin Shui Wai;
- (j) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that a valid food licence or permit had to be obtained from the DFEH for carrying out any food business and a Places of Public Entertainment Licence from Food and Environmental Hygiene Department was required if public entertainment was presented or carried out;
- (k) to note the comments of the Chief Officer (Licensing Authority), Home Affairs Department (HAD) that the applicant should note section 2 of the Hotel and Guesthouse Accommodation Ordinance (HGAO) (Cap.349) and should hotel/guesthouse be proposed, the license area should be physically connected. Besides, licensing requirements would be formulated after inspections by HAD's Building Safety Unit and Fire Safety Team upon receipt of a licence application under HGAO;
- (l) to note the comments of the Commissioner of Police that multiple entrances and exits should be implemented in the site as the proposed development was likely to attract crowd and there would be great difficulty for emergency services to access points of conflicts or incident locations;
- (m) to note the comments of the Secretary for Education that part of Area 112

was a reserved school site and should be given back to the Education Bureau after termination of the STT;

- (n) to note the public concerns on the convenience, accessibility, affordability and effectiveness of the proposed development when implementing the proposed development and to liaise with the locals/local organization to explain to them the details of the proposed development and address their concerns; and
  
- (o) the approval of the application did not imply that the proposed building design elements to fulfill the Sustainable Building Design Guidelines, the proposed bonus plot ratio and GFA concession for the proposed development would be approved/granted by the Building Authority. The applicant should approach the BD direct to obtain the necessary approval. If the building design elements and the GFA concession were not approved/granted by the Building Authority and major changes to the current scheme were required, a fresh planning application to the Board might be required.

[Dr. C.P. Lau left the meeting and Dr. W.K. Yau left the meeting temporarily at this point. Mr. Walter K.L. Chan, Ms. Anita K.F. Lam, Mr. B.W. Chan and Mr. Y.K. Cheng returned to join the meeting at this point.]

**Agenda Item 20**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/353            Proposed Residential-cum-Commercial Development with Minor Relaxation of the Building Height Restriction (from 12 Storeys and 36m to 13 Storeys and 42.053m) in “Comprehensive Development Area” and “Residential (Group A) 2” zones and an area shown as ‘Road’, Lots 2328 RP, 2340 RP, 2340 S.A ss1, 2340 S.A ss2, 2340 S.A ss3, 2340 S.A ss4 RP, 2340 S.A ss5 RP, 2340 S.A ss6, 2340 S.A RP, 2341, 2342 S.A, 2342 S.B ss1, 2342 S.B RP, 2342 S.C RP, 2342 S.D RP, 2343 S.A ss1, 2343 S.A RP, 2343 S.B RP and 2350 in D.D. 124 and Adjoining Government Land, Hung Shui Kiu, Ping Shan, Yuen Long  
(RNTPC Paper No. A/YL-PS/353A)

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104.            The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with Associated Architects Ltd and ADI Ltd, the consultants of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

**Presentation and Question Sessions**

105.            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 proposed residential-cum-commercial development with minor relaxation of the building height restriction from 12 storeys and 36m to 13 storeys and 42.053m;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;

- (d) no public comment was received during the first three weeks of the statutory publication period, which ended on 30.8.2011. During the first three weeks of the second statutory public inspection period, which ended on 30.12.2011, one public comment from the Owners' Incorporation of Aster Court was received. The commenter objected to the application and requested the Government to have an integrated planning while sticking to the previous plan for Hung Shui Kiu for low-density developments; and
  
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the applications based on the assessment made in paragraph 10 of the Paper. The site was subject to a previously approved application (No. A/YL-PS/198) for a similar extent of building height relaxation. There had been no change in the planning circumstances since approval of the previous application in 2005 but that approval had lapsed in 2009. The proposed development was in line with the planning intention of the “Residential (Group A) 2” (“R(A)2”). The maximum building height of the proposed development would be increased to 42.053m (i.e. increase of 8.3%) and 13 storeys (i.e. increase of 16.8%) which deviated from the building height restrictions on the OZP. However, the proposed relaxation of building height restriction could be tolerated as the building height of the proposed residential development would be maintained at 36m above the ground level and the resultant built form and height of the proposed development would not create adverse visual impact on the surrounding area. In this regard, CTP/UD&L of PlanD had no comment on the application. While there were minor encroachments of the site onto the “Comprehensive Development Area” (“CDA”) zone and an area shown as ‘Road’, these areas were designated as non-building areas under the proposed scheme. As compared with the previously approved scheme under Application No. A/YL-PS/198, the current submission represented a reduction in building height from 43.175mPD and 13-14 storeys to 42.053m and 13 storeys. There were also improvements in building design and design merits under the current scheme, including reduction in building height by one storey and improvement in permeability by

providing of two 'gaps' of 10m and 15m respectively. Besides, it was anticipated that the proposed development would not result in adverse impacts on the surrounding area and concerned departments had no comment on or no objection to the application. There were similar applications (No. A/YL-PS/204, 234 and 261) for minor relaxation of the building height restriction within the same "R(A)2" zone approved by the Committee. Approval of the application was consistent with the Committee's previous decisions. With respect to the public comment raising objection to the application, it was considered that the application applying for a minor relaxation of building height did not involve an increase in plot ratio/GFA and additional demand for local facilities was not anticipated. The building height of the proposed development would be maintained at 36m above ground level and gaps of 10m and 15m would be provided between buildings. Hence, the resultant built form of the proposed development would unlikely create adverse visual impact on the surrounding area.

106. Members had no question on the application.

#### Deliberation Session

107. The Chairman said that apart from the design merits of the scheme, the proposed development would also help increase the supply of small- to medium-size flats in Hong Kong.

108. 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 20.1.2016, 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 landscaping and tree preservation proposal to the satisfaction of the Director of Planning or of the TPB; and

- (b) the provision of water supply for fire-fighting and the submission and implementation of fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the District Lands Officer/Yuen Long that a land exchange was required to implement the proposal and the actual site area of the private lots and government land involved would be subject to verification in the land exchange stage. There was no guarantee that the application would be approved and such application would be considered by the Lands Department (LandsD) acting in the capacity as the 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 as might be imposed by LandsD. Besides, as the adjoining private lot (Lot 2328 S.B RP in D.D. 124) did not form part of the site but would be landlocked as a result of the proposed development, right of way should be reserved in the site to owners and occupiers of Lot 2328 S.B RP at all times. Furthermore, the design of the proposed 24-hour access to Lot 2318 S.B RP would be examined at the building plan submission;
- (b) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department on the maximization of the greening opportunities, e.g. behind the loading/unloading area near Block B and the landscaped area between Block B and C. More greening should be provided along the central area to disguise the functional appearance of the emergency vehicular access and improve the landscape amenity. Besides, the applicant should make sure that the rectangular green coloured areas around the blocks were for private use only and would not be paved. Besides, the small height difference (both east-west and north-south) could not be considered as an effective stepping/building height variation and was of limited visual interest and significant stepped building height profile would require further relaxation of building height or relaxation of the site coverage;

- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that HyD should not be responsible for the maintenance of any access connecting the site and Hung On Lane and the proposed vehicular access arrangement of the site from Hung On Lane should be agreed by Transport Department. Besides, a run-in/out at the vehicular access point at Hung On Lane should be constructed in accordance with the latest version of HyD Standard Drawing Nos. H1113 and H1114 or H5113, H5134 and H5135, whichever set was appropriate to match with the existing of pavement. Furthermore, adequate drainage measures should be provided at the vehicular access to prevent surface runoff flowing from the site onto the nearby public road/drains;
- (d) to note the comments of the Director of Fire Services that the emergency vehicular access provision in the site should comply with the standard stipulated in Part VI of the Code of Practice for Means of Access for Fire-fighting and Rescue under the Building (Planning) Regulation (B(P)R) 41D;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that any public right-of-way within the re-grant site serving as access to Lot 2328 S.B RP and area of any internal streets/roads required under section 16(1)(p) of the Buildings Ordinance (BO) should be deducted from the site area for the purpose of plot ratio and site coverage calculations under BO. Besides, the proposed open space provision should not be less than the requirements as stipulated in the Second Schedule of B(P)R. Furthermore, quality and sustainable built environment requirements and the new gross floor area (GFA) concession policy were applicable to this site; and
- (f) the approval of the application did not imply that the proposed building design elements to fulfill the Sustainable Building Design Guidelines, the proposed bonus plot ratio and GFA concession for the proposed development would be approved/granted by the Building Authority (BA).

The applicant should approach BD direct to obtain the necessary approval. If the building design elements and the GFA concession were not approved/granted by BA and major changes to the current scheme were required, a fresh planning application to the Board might be required.

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

### **Agenda Item 21**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/363            Proposed Temporary Public Vehicle Park for Private Cars  
and Light Goods Vehicles for a Period of 3 Years  
in “Village Type Development” zone,  
Lots 387 S.C ss.3 RP (Part) and 387 S.C RP (Part) in D.D. 122,  
Sheung Cheung Wai, Ping Shan, Yuen Long  
(RNTPC Paper No. A/YL-PS/363)

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

110.        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 proposed temporary public vehicle park for private cars and light goods vehicles for a period of three years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the applications;
- (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 three years based on the assessment made in paragraph 11 of the Paper. The site was zoned “Village Type Development” (“V”). As there was no development proposal concerning the site to implement the planned uses, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone. Besides, the proposed vehicle park, for private cars and light goods vehicles only, was not incompatible with the surrounding land uses. CTP/UD&L of PlanD considered the nature of the proposed development not incompatible with the existing landscape character and had no objection to the application. Besides, the proposed vehicle park could serve the parking needs of the local residents. To further reduce the potential impact on the surrounding environment, approval conditions restricting the operation hours and type of vehicles were recommended. Concerned government departments had no adverse comments on the application. Moreover, there were a number of planning applications for similar use approved by the Committee in the same “V” zone since 1999. Approval of the application was therefore consistent with the Committee's previous decisions.

111. Members had no question on the application.

#### Deliberation Session

112. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 20.1.2015, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night time operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no medium or heavy goods vehicle exceeding 5.5 tonnes, including

container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant, was allowed to be parked on the site at any time during the planning approval period;

- (c) a notice should be posted at a prominent location of the site to indicate that no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes), including container tractor/trailer, as defined in the Road Traffic Ordinance, was allowed to be parked on the site at any time during the planning approval period;
- (d) the provision of peripheral fencing within 6 months from the date of the planning approval to the satisfaction of the Director of Planning or of the TPB by 20.7.2012;
- (e) 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 20.7.2012;
- (f) in relation to (e) above, the provision of drainage facilities as proposed within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 20.10.2012;
- (g) the submission of landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 20.7.2012;
- (h) in relation to (g) above, the implementation of the landscape and tree preservation proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 20.10.2012;
- (i) the submission of fire service installations proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the TPB by 20.7.2012;

- (j) in relation to (i) above, the implementation of the fire service installations proposal within 9 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the TPB by 20.10.2012;
- (k) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (l) if any of the above planning condition (d), (e), (f), (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (m) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) to resolve any land issues relating to the development with other owner(s) of the application site;
- (c) to note the comments of the District Lands Officer/Yuen Long that the site was open onto Tsui Sing Road and his office provided no maintenance works for this access nor guarantee right-of-way. The concerned lot owners need to apply to his office to permit any additional/excessive structures to be erected or regularize any irregularities on site. Such applications would be considered by his department 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 the department;

- (d) to adopt the environmental mitigation measures as set out in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department to minimise any possible environmental nuisances;
- (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 (HyD) that the proposed access arrangement of the site from Tsui Sing Road should be agreed by Transport Department. HyD did not maintain the existing Tsui Sing Road and the applicant should be responsible for his own access arrangement;
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that :
  - (i) if the existing structures were erected on leased land without approval of BD, they were unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Enforcement action might be taken by the Building Authority (BA) to effect removal of any unauthorised building works (UBW) in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as acceptance of any existing building works or UBW on the site under the BO;
  - (ii) before any new building works were to be carried out on the site, the prior approval and consent of BA should be obtained. An

Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO; and

- (iii) the site should be provided with means of obtaining access thereto from a street under the Building (Planning) Regulations (B(P)R) 5 and emergency vehicular access should be provided under the BPR 41D;
  
- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the applicant should maximize the opportunities for greening and consider tree planting along eastern and western boundaries of the site; and
  
- (i) to note the comments of the Director of Fire Services that for storage, open sheds or enclosed structure with total floor area less than 230m<sup>2</sup> with access for emergency vehicles to reach 30m travelling distance to structure, portable hand-operated approved appliance should be provided as required by occupancy and should be clearly indicated on plans; layout plans incorporated with the proposed fire service installations (FSIs) 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. Should the applicant wish to apply for exemption from the provision of certain FSIs as prescribed by his department, the applicant was required to provide justifications for his consideration.

**Agenda Item 22**

**Section 16 Application**

[Open Meeting]

A/TM-LTY Y/221 Proposed Flat Development  
in “Residential (Group E)” zone,  
Lots 464 S.A ss.1, 464 S.B, 465, 472 S.A RP and  
472 S.B RP in D.D. 130, San Hing Road, Lam Tei, Tuen Mun  
(RNTPC Paper No. A/TM-LTY Y/221A)

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114. The Secretary reported that Ms. Anna S.Y. Kwong, having current business dealings with Environ Hong Kong Ltd and Landes Ltd, and Mr. Stephen M.W. Yip, having current business dealings with Environ Hong Kong Ltd, had declared interests in this item as the two firms were the consultants of the application. The Committee noted that Mr. Yip had tendered apology for being unable to attend the meeting. As the applicant had requested for a deferment of consideration of the application, the Committee agreed that Ms. Kwong was allowed to stay in the meeting. The Committee also noted that Ms. Kwong had left the meeting temporarily.

115. The Committee noted that the applicant’s representative requested on 4.1.2012 for a deferment of the consideration of the application for two months so as to allow more time to respond to comments of government departments concerned.

116. 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 as a total period of four months had been allowed, no further deferment would be granted unless under very special circumstances.

**Agenda Item 23**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-ST/408            Proposed House (New Territories Exempted House)  
                                 in “Residential (Group D)” zone,  
                                 Government Land near Hop Shing Wai in D.D. 105,  
                                 Mai Po, Yuen Long  
                                 (RNTPC Paper No. A/YL-ST/408)

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**Presentation and Question Sessions**

117.            Mr. K.C. Kan, STP/TMYL, 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));
- (c)    departmental comments – concerned government departments had no objection to or adverse comments on the application;

[Dr. W.K. Yau returned to join the meeting at this point.]

- (d)    two public comments were received during the first three weeks of the statutory publication period. While one comment from a villager of Mai Po Tsuen strongly objected to the application on the ground that the proposed house would affect the ‘fung-shui’ of his ancestor’s grave, the other comment from the San Tin Rural Committee requested the Board to withhold granting approval to the application pending clarification on whether the applicant was a villager of San Tin Heung; and
- (e)    the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment made in paragraph 12 of the Paper.

The District Lands Officer/Yuen Long (DLO/YL) advised that there were structures covered by ex-Government Land Licence No. PNT 2214 for the site owned by the applicant but the structures were destroyed by a fire in 2010. DLO/YL further indicated that rebuilding of the structures with permanent materials to a maximum site area of 37.2m<sup>2</sup> (400ft<sup>2</sup>) and building height of two storeys/5.18m (17ft) with a stairhood of not more than 2.14m at the rooftop might be allowed. According to the Notes of the OZP, rebuilding of NTEH was always permitted but this provision was not applicable as all the structures had been removed by the Lands Department. In light of the above special background, the application might warrant exceptional and sympathetic consideration. The proposed NTEH was not incompatible with the uses in the surrounding area. The roofed-over area of the proposed NTEH (37.15m<sup>2</sup>) and the building height of the proposed NTEH (7.32m) were not excessive. Government departments consulted had no objection to or adverse comment on the application. The technical concerns of government departments on fire safety and drainage could be addressed through imposition of approval conditions. With respect to the two public comments received, the applicant would be advised to liaise with the relevant villagers and local residents on their concerns on the 'fung-shui' matter. As regards San Tin Rural Committee's request for the Board to withhold consideration of the case until the applicant's villager identity was clarified, it should be noted that the application was outside the "Village Type Development" zone and village 'environs', and the proposed house was not Small House.

118. Members had no question on the application.

#### Deliberation Session

119. In response to the enquiry of a Member, Ms. Anita K.F. Lam said that NTEH in general referred to a domestic building or a building primarily used for habitation, the building works of which were exempted by a certificate of exemption under Part III of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121). Under the Ordinance, a NTEH might be constructed to a height of not more than 8.23m (27ft), the



building might not exceed three storeys, and the roof-over area might not exceed 65.03m<sup>2</sup> (700ft<sup>2</sup>). With respect to whether a non-indigenous villager could build a NTEH on the application site, Ms. Lam said that the respective District Lands Office would consider each case individually in the capacity as landlord upon receipt of the application from the applicant.

[Ms. Anna S.Y. Kwong returned to join the meeting at this point.]

120. Upon the enquiry of the same Member, Ms. Anita K.F. Lam further explained that on-farm domestic structures might be allowed on agricultural land for habitation of the farmers who needed to work on their farm by way of issuing relevant licences. Under LandsD's policy, eligible farmers with such building licences obtained from LandsD might build on-farm domestic structures of two storeys in height with a roofed-over area of not more than 400ft<sup>2</sup> (37.2m<sup>2</sup>).

121. Ms. Anita K.F. Lam supplemented that the laws of Hong Kong did not stipulate that only indigenous villager could build a Small House. LandsD would, upon receipt of the applications for Small House development, consider each case individually in the capacity as landlord.

122. 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 20.1.2016, 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 proposal on water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB.

123. 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 site under application fell on government land. No permission had been given for occupation of the government land. The applicant would need to seek his approval to permit New Territories Exempted House (NTEH) to be erected on-site. Such application would be considered by 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 Licence fee, as might be imposed by LandsD;
- (b) to note the comments of the Commissioner for Transport that the application site was connected to an unknown local access road which was not managed by Transport Department. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of the Director of Environmental Protection that for 10 numbers or less NTEHs, if public sewer was not available, proper on-site treatment and disposal facilities should be provided. If septic tank and soakaway was proposed, the design of the system should follow the ProPECC PN5/93 which was available from their website;
- (d) to note the comments of the Director of Agriculture, Fisheries and Conservation that the site was close to an active egretty which was the largest in Hong Kong, supporting a total of 153 nests of breeding ardeids in 2011. The applicant should limit or shorten the works period as far as possible and avoid the use of noisy machinery during the breeding season of ardeids (i.e. from March to August inclusive). The applicant should ensure that the proposed development would not affect the nearby wooded area and trees during the construction works (including opening/widening of access, if any);

- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department as detailed in Appendix III of the Paper;
- (f) to note the comments of the Director of Fire Services that the New Territories Exempted House – A Guide to Fire Safety Requirements issued by LandsD should be followed;
- (g) 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/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;
- (h) 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. Based on the cable plans obtained, if there was underground cable (and/or overhead line) within or in the vicinity of the site, the applicant should carry out the measures as detailed in Appendix III of the Paper; and
- (i) to liaise with the relevant villagers and local residents on their concerns.

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

**Agenda Item 24**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-ST/409            Renewal of Planning Approval for Temporary Public Car Park  
(for Private Cars) with Ancillary Facilities (Including a Refreshment  
Kiosk) under Application No. A/YL-ST/357 for a Period of 3 Years  
in “Undetermined” zone,  
Lot 372S.D RP (Part) in D.D. 99 and Adjoining Government Land,  
San Tin, Yuen Long  
(RNTPC Paper No. A/YL-ST/409)

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124.            The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had current business dealings with Lanbase Surveyors Ltd, the consultant of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

**Presentation and Question Sessions**

125.            Mr. K.C. Kan, 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 public car park (for private cars) with ancillary facilities (including a refreshment kiosk) under Application No. A/YL-ST/357 for a period of three years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (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 further period of three years based on the assessment made in paragraph 12 of the Paper. The site fell within the “Undetermined” (“U”) zone on the OZP and the future land uses of this zone were currently being reviewed under the Lok Ma Chau Loop Study. Approval of the application on a temporary basis for three years would not frustrate the future land uses of the “U” zone. The renewal of planning permission sought was in line with the TPB Guidelines No. 34B in that there had been no major change in the planning circumstances; government departments concerned had no adverse comment on the application; all the approval conditions under the previous approval had been complied with; the three-year approval period sought was the same as in the previous application; and the temporary use under application would not jeopardize the planning intention of the “U” zone. The temporary public car park (for private cars) use was considered not incompatible with the nearby environment. Although the site fell within the Wetland Buffer Area (WBA) under the TPB Guidelines No. 12B, planning applications for temporary uses were exempted from the requirement of an Ecological Impact Assessment. Given the nearest pond was about 203m to the north of the site, it was unlikely that the development at the site would have significant adverse off-site disturbance impacts on the fish ponds. Besides, apart from meeting some parking demand of local villagers/residents, the applied use could also satisfy some of the parking demand for cross-boundary travellers. As government departments concerned had no adverse comment on the application and adverse impacts on the surrounding area were not anticipated, the application was therefore in line with the TPB Guidelines No. 13E. Nevertheless, to mitigate potential environmental nuisance to the surrounding area, approval conditions restricting the types of vehicles and activities on-site and requiring maintenance of paving and boundary fencing were recommended. Technical concerns of other departments could also be addressed by way of stipulating relevant approval conditions. Besides, the Committee had since 2000 approved ten applications for

temporary public car park within the same “U” zone. Approval of the application was consistent with the previous decisions of the Committee.

126. Noting that there was a car beauty parlour within the site but PlanD had recommended an approval condition that no car washing and vehicle repair should be allowed on the site, a Member enquired whether the activity in the car beauty parlour would have conflict with that approval condition.

127. In response, Mr. K.C. Kan said that though a signboard showing car beauty parlour was found within the site during site inspection, no such activity was observed by PlanD’s staff. The approval condition was recommended to prevent car washing and vehicle repair activities from polluting the environment. Nevertheless, Mr. Kan pointed out that both car beauty parlour and vehicle repair activities were not included in the applied use and hence such activities would not be permitted even if the renewal application was approved by the Committee.

128. Upon the enquiry of the Chairman, Mr. K.C. Kan confirmed that the same approval condition was stipulated in the previous permission granted to the same applicant and all the approval conditions had been complied with.

#### Deliberation Session

129. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years from 14.2.2012 to 13.2.2015, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the setting back of the western boundary of the site at least 1.5m from the centreline of the existing 150mm diameter water mains at any time during the planning approval period;
- (b) no vehicle without valid licence issued under the Road Traffic Ordinance was allowed to be parked/stored on the site at any time during the planning approval period;

- (c) no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailer/tractor as defined in the Road Traffic Ordinance was allowed to be parked/stored on the site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the site to indicate that no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailer/tractor as defined in the Road Traffic Ordinance was allowed to be parked/stored on the site at any time during the planning approval period;
- (e) no car washing, vehicle repair, dismantling, paint spraying or other workshop activity was allowed on the site at any time during the planning approval period;
- (f) the paving and boundary fencing on the site should be maintained at all times during the planning approval period;
- (g) the landscape planting on the site should be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (i) the submission of as-built drainage plans and sections and photographic records of the existing drainage facilities within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 13.8.2012;
- (j) the submission of buffer area proposal fronting Castle Peak Road – Chau Tau within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 13.8.2012;

- (k) in relation to (j) above, the provision of buffer area proposal fronting Castle Peak Road – Chau Tau within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 13.11.2012;
- (l) the submission 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 13.8.2012;
- (m) in relation to (l) above, the provision of fire service installations within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 13.11.2012;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) 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;
- (o) if any of the above planning conditions (i), (j), (k), (l) or (m) 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
- (p) 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.

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

- (a) to resolve any land issues relating to the temporary development with the concerned owner(s) of the application site;



- (b) the permission was given to the development/uses under application. It did not condone any other development/uses which currently occur(s) on the site but not covered by the application. The applicant should be requested to take immediate action to discontinue such development/uses not covered by the permission;
  
- (c) to note the comments of the District Lands Officer/Yuen Long that the land under application site comprised Old Scheduled agricultural lot held under Block Government Lease which contained the restriction that no structures were allowed to be erected without the prior approval of the Government. No approval was given for the specified structure as container-converted site office and refreshment kiosk. The eastern portion of the application site encroached upon Short Term Tenancy (STT) No. 1748 lot for the purpose of vehicle parking which should be avoided. No permission was given for occupation of the government land (GL) (about 9,796m<sup>2</sup> subject to verification) included into the application site. Access of the site abutted directly onto Castle Peak Road – Chau Tau. His Office provided no maintenance work for the GL involved and did not guarantee right-of-way. Applications for Short Term Waiver (STW) and STT to regularize the irregularities on-site have been received by his Office. His Office would continue processing of the STW/STT applications. Such application would be considered by Lands Department (LandsD) acting in the capacity as landlord at its sole discretion and there was no guarantee that such application would be approved. 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;
  
- (d) to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department to minimize potential environmental impacts on the surrounding area;
  
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department as detailed in Appendix V of the Paper;

- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that unauthorised 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 unauthorised structures existing on-site under the BO and the allied regulations. Actions appropriate under the BO or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required. If the site did not abut a street of not less than 4.5m wide, the development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at building plan submission stage. B(P)R 41D regarding the provision of emergency vehicular access was applicable;
  
- (g) to note the comments of the Director of Fire Services that fire service installations (FSIs) were required in consideration of the design/nature of the proposed structures. The applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In formulating FSIs proposal for the proposed structures, the applicant was advised to make reference to the requirements that for other open storages, open sheds or enclosed structure with total floor area less than 230m<sup>2</sup> with access for emergency vehicles to reach 30m travelling distance to structures; and portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans. The applicant should also be advised that (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Furthermore, should the applicant wish to apply for exemption from the provision of certain FSIs as prescribed in the above, the applicant was required to provide justifications to his department for consideration;
  
- (h) to note the comments of the Director of Electrical and Mechanical Services

as detailed in Appendix VI of the Paper;

- (i) to note the comments of the Director of Food and Environmental Hygiene that the applicant was advised that a proper food licence issued by his department was necessary if any class of food business was open for public; and
- (j) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that existing 150mm diameter water mains along western boundary of the site would be affected, 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. Other existing water mains would also be affected by the development. The applicant should bear the cost of any necessary diversion works affected by the proposed development.

### **Agenda Item 25**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/760      Proposed Temporary Open Storage of Steel Reinforcement  
for a Period of 3 Years in “Comprehensive Development Area”  
and “Village Type Development” zones,  
Lot No. 3216 RP in D.D. 129, Ha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-HT/760)

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

131.      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 steel reinforcement for a period of three years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive users in the vicinity of the site and environmental nuisance was expected. The Commissioner for Transport (C for T) was concerned about the cumulative adverse traffic impact on the nearby road network if such similar applications were approved. 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 adjacent land uses and rural landscape character, and approval of the application would set an undesirable precedent and further degrade the nearby village environment;
- (d) two public comments were received from a local villager and a group of 59 local villagers during the first three weeks of the statutory publication period. The commenters objected to the application mainly on the grounds that the proposed development was not in line with the planning intention of the “Village Type Development” (“V”) zone; the proposed development would degrade the environment of the village; there would be adverse drainage impact on the area caused by the proposed development; the applied use would induce higher flooding risks in the area; and the proposed ingress/egress would pose danger on the local villagers; 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 mainly within Category 4 areas (99.3%) under the TPB Guidelines No. 13E where applications would normally be rejected. The applied use was not in line with the planning intention of the “V” zone and the applicant had not provided any planning justification in the submission to merit a departure from such planning intention, even on a temporary basis. Approval of the application would not only set an undesirable

precedent and encourage other similar applications for open storage uses within the subject “V” zone, but also result in interface problems thereby frustrating the long-term planning intention of the subject “V” zone. In this regard, CTP/UD&L of PlanD objected to the application. Although the applied use was not incompatible with the open storage yards and vehicle park to its north, it was incompatible with the village settlements of Fung Kong Tsuen to its west. DEP also did not support the application because there were sensitive uses in the vicinity of the site. The application did not meet the TPB Guidelines No. 13E as there was no exceptional circumstances that warranted special consideration; no previous approval for open storage use had been granted for the site; there were local objections and adverse comments from C for T, CTP/UD&L of PlanD and DEP; and no information had been submitted to demonstrate that the applied use would not have adverse impacts on the surrounding area. The applicant cited similar planning permissions (Applications No. A/YL-HT/588, 694 and 711) granted by the Board for storage/open storage uses in other “V” zones in support of the application. In this regard, it was noted that these three quoted planning approvals had different planning contexts from the present application and could not be considered as comparable cases. The Committee had also recently rejected a similar application No. A/YL-HT/750 within another “V” zone on the Ha Tsuen OZP. Rejection of the application was in line with the Committee’s recent decision. There were two local objections to the application on the grounds of planning intention, environmental impacts, drainage impacts and traffic safety.

132. Members had no question on the application.

#### Deliberation Session

133. 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 “Village Type Development” (“V”) zone, which was to designate both existing recognized villages and areas of land considered suitable for village expansion. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the proposed development was not compatible with the village settlements of Fung Kong Tsuen;
- (c) the development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that there was no exceptional circumstances to warrant special consideration, no previous approval for open storage use had been granted for the site, there were local objections and adverse departmental comments on the traffic, landscape and environmental aspect, and the proposed development would generate adverse traffic, landscape and environmental impacts to the surrounding area; and
- (d) the approval of the application would set an undesirable precedent for similar applications within the “V” zone of Fung Kong Tsuen. The cumulative impact of approving such applications would result in a general degradation of the environment of the area.

**Agenda Item 26**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/762            Proposed Temporary Vehicle Park for Private Cars, Light and Heavy Goods Vehicles and Container Tractors/Trailers with Ancillary Freight Forwarding Facility, Vehicle Repair Workshop and Open Storage of Scrap Metal for a Period of 3 Years in “Comprehensive Development Area” zone, Lots No. 805 S.B RP, 807 RP, 808 RP, 809 RP (Part), 813 RP (Part), 814 RP (Part), 815 (Part) and 816 S.B RP (Part) in D.D. 125 and Adjoining Government Land, Ha Tsuen, Yuen Long (RNTPC Paper No. A/YL-HT/762)

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**Presentation and Question Sessions**

134.            Mr. Ernest C.M. Fung, STP/TMYL, said that replacement pages 12 and 13 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 vehicle park for private cars, light and heavy goods vehicles and container tractors/trailers with ancillary freight forwarding facility, vehicle repair workshop and open storage of scrap metal 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 site and environmental nuisance was expected. She further advised that two substantiated air pollution complaints against the site were received in 2009;
- (d) three public comments were received during the first three weeks of the statutory publication period. The one from a local resident expressed

concern on the noise impact associated with the applied use. The other two were from two local residents who objected to the application on the grounds that the open-air paint-spraying at the site might seriously pollute the air quality and affect the health of the public; and

- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under application could be tolerated for a period of one year, instead of three years as proposed by the applicant, based on the assessment made in paragraph 12 of the Paper. The site fell within Category 1 areas under the TPB Guidelines No. 13E where favourable consideration would normally be given to applications within these areas. The applied use was not incompatible with the surrounding uses and approval of the application on a temporary basis would not frustrate the long-term planning intention of the “Comprehensive Development Area” (“CDA”) zone. The development was in line with the TPB Guidelines No. 13E in that the concerns of government departments and the commenters could be addressed by way of stipulating relevant approval conditions, and there was no adverse comment from concerned government departments. DEP did not support the application and indicated that there were two substantiated air pollution complaints pertaining to the site in 2009. In this regard, approval conditions restricting the operation hours and prohibiting the paint-spraying activity on-site were recommended. The Committee had approved a number of previous applications at the site since 1998. Although the last two applications No. A/YL- HT/650 and 697 were revoked due to non-compliance with approval conditions, they were submitted by a different applicant. Nevertheless, noting that the applied use was similar, there were two substantiated air pollution complaints against the site, and there were alleged open-air paint-spraying activities on-site from the locals, a shorter approval period of one year was recommended to monitor the situation of the site and the compliance with approval conditions. The Committee/the Board had recently approved a number of similar applications within the same “CDA” zone for various temporary open storage/port back-up uses. Approval of the subject application was in line with the Committee's previous decisions. There



were three public comments from the locals on the application. In this regard, approval conditions had been recommended to address the commenters' concerns. A shorter approval period of one year had also been recommended to monitor the situation on-site.

135. Members had no question on the application.

#### Deliberation Session

136. The Chairman said that it might not be reasonable not to allow paint spraying activity for a vehicle repair workshop. He asked if such activity could be restricted to a certain area within the site. Mr. H.M. Wong stated that given the grave concerns raised by the local residents on the paint-spraying activity undertaken at the site, it would be prudent not to allow such activity. Mr. Wong added that a large part of the application site would be used for the parking of different types of vehicles and the prohibiting of paint-spraying activity at the site should not affect the applied use.

137. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 1 year until 20.1.2013, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night time operation between 11:00 p.m. to 7:00 a.m., as proposed by the applicant, was allowed on the site during the approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no paint-spraying activity was allowed on the site during the planning approval period;
- (d) no vehicle without valid licence/registration, as proposed by the applicant, was allowed to be parked on the site during the planning approval period;

- (e) no material/vehicle was allowed to be stored/parked within 1m of any tree on the site, as proposed by the applicant, during the planning approval period;
- (f) the drainage facilities implemented on the site under Application No. A/YL-HT/697 should be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities within 3 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 20.4.2012;
- (h) the submission and implementation of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of Director of Fire Services or of the TPB by 20.7.2012;
- (i) the submission and implementation of landscape and tree preservation proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Planning or of the TPB by 20.7.2012;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (k) if any of the above planning conditions (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 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.

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

- (a) planning permission should have been obtained before commencing the development on-site;
- (b) to note that a shorter approval period of 1 year and correspondingly shorter compliance periods were granted in order to monitor the situation of the site and the fulfilment of approval conditions;
- (c) to resolve any land issues 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 site was situated on Old Scheduled Agricultural Lots held under the Block Government Lease which contained the restriction that no structure was allowed to be erected without the prior approval of the Government. The applicant should apply to him to permit structures to be erected or regularize any irregularities on-site and the occupation of the government land (GL) involved. Such application would be considered by the Lands Department (LandsD) acting in the capacity as landlord at its sole discretion. If the application was approved, it would be subject to such terms and conditions, including among others, the payment of premium/fees, as might be imposed by LandsD. He did not guarantee right-of-way for access to the site from Ping Ha Road via a local track on GL and Government Land Allocation No. TYL 825. The Chief Engineer/Land Works of Civil Engineering and Development Department should be consulted on any interface problem/issue with the 'Ping Ha Road Improvement – Remaining Works';
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance;
- (f) to note the 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;

- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided at the site entrance to prevent surface water running from the site to the nearby public roads and drains through the run in/out;
- (h) to note the comments of the Director of Fire Services that portable hand-operated approved appliances should be provided for open storage yards, open sheds or enclosed structures with total floor area less than 230m<sup>2</sup> with access for emergency vehicles to reach 30m travelling distance to the structures, as required by occupancy and should be clearly indicated on plans. The applicant should submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to him for approval. Detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s). The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSIs, the applicant was required to provide justifications to him for consideration; and
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that enforcement action might be taken by the Building Authority (BA) to effect the removal of unauthorised building works (UBW) erected on the site in accordance with BD's enforcement policy against UBW as and when necessary. The granting of planning approval should not be construed as acceptance of any existing building works or UBW on the site under the Buildings Ordinance (BO). Formal submission under the BO was required for any proposed new building works, including any temporary structures, and an Authorised Person

should be appointed as the co-ordinator for the proposed building works in accordance with the BO. The converted containers and shed for temporary office and loading/unloading uses were considered as temporary buildings, and were subject to control under Building (Planning) Regulations (B(P)R) Part VII. Prior approval and consent of the BA should be obtained before any new building works were to be carried out on the site. If the site was not abutting a specified street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage. The site should be provided with means of obtaining access from a street under B(P)R 5 and emergency vehicular access should be provided under B(P)R 41D.

### **Agenda Item 27**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-LFS/232      Proposed Temporary Open Storage of Marble and Construction Materials with Ancillary Minor Workshop for a Period of 3 Years in “Recreation” and “Residential (Group E)” zones, Lots No. 2219 RP (Part) and 2226 (Part) in D.D. 129 and Adjoining Government Land, Deep Bay Road, Lau Fau Shan, Yuen Long  
(RNTPC Paper No. A/YL-LFS/232)

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

139.      Mr. Ernest C.M. Fung, STP/TMYL, said that replacement page 16 and Appendix X 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 proposed temporary open storage of marble and construction materials

with ancillary minor 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 site and environmental nuisance was expected. She further advised that one substantiated noise pollution complaint against the site was received in 2011;
- (d) four public comments from a Yuen Long District Council member, a Legislative Council member relaying a local resident's objection, and two local residents 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 site was close to residential developments and would lead to noise/dust nuisance to the residents nearby; the applied use might result in safety problem due to the use of cranes for loading/unloading of materials; and there had been many incidents of non-compliance with the approval conditions by the previous applicants at the site; and
- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under application (except the ancillary minor workshop) could be tolerated for a period of one year, instead of three years as proposed by the applicant, based on the assessment made in paragraph 12 of the Paper. 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 3 areas where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals under the TPB Guidelines No.13E. Although the proposed temporary use was not in line with the planning intention of "Residential (Group E)" ("R(E)") and "Recreation" ("REC") zones, there was no immediate development proposal for the site and the applied use was temporary in nature, and the proposed temporary use was not incompatible with the surrounding uses. Approval of the application

on a temporary basis would therefore not frustrate the planning intention of the “R(E)” and “REC” zones. The proposed development was in line with the TPB Guidelines No. 13E in that the concerns of government departments and the commenters could be addressed by way of stipulating relevant approval conditions; and there was no adverse comment from concerned government departments. Although DEP did not support the application, approval conditions restricting the operation hours, types of vehicles used, stacking height and types of materials stored on-site, and prohibiting the workshop activities were recommended to mitigate any potential environmental impacts on nearby residents. The site was the subject of ten previous approvals since 1996. Since granting these previous approvals, there had been no material change in the planning circumstances. Moreover, the Committee had approved a number of similar applications for open storage uses in the subject “R(E)” and “REC” zones. Approval of the subject application was in line with the Committee’s previous decisions. Although the last two approvals were revoked due to non-compliance with the approval conditions, they were submitted by a different applicant, and the site had been vacated now. Considering the close proximity of the site to two isolated residential dwellings, the recent substantiated noise pollution complaint, the fact that none of the previous applications were approved for a period of more than one year, and that the Committee had never approved any workshop use at the site, a shorter approval period of one year was recommended. Moreover, the ancillary minor workshop use under application was not supported. There were four objections against the application mainly on the grounds of operational safety of using cranes at the site and noise/dust nuisance arising from the proposed development. In this regard, approval conditions had been recommended to address the commenters’ concerns. A shorter approval period of one year had also been recommended to monitor the situation on-site.

[Mr. Walter K.L. Chan left the meeting temporarily at this point.]

140. A Member noted that the temporary use under application included an open-air

ancillary workshop. Given the local residents' on the dust and noise nuisance caused by marble polishing/cutting, that Member enquired whether the application should be approved.

141. In response, Mr. Ernest C.M. Fung drew Members' attention to paragraphs 12.6 and 13.2 of the Paper and said that in order to minimize the noise and dust nuisance caused by the temporary use to the nearby residents, the ancillary minor workshop use under application was not supported. Mr. Fung further explained that the site was the subject of 12 previous applications for various temporary open storage uses, among which 10 applications were approved by the Board/Committee and no workshop use had been approved at the site. Hence the approval of the application without allowing the ancillary minor workshop use was consistent with the previous decisions of the Committee.

[Mr. Walter K.L. Chan returned to join the meeting at this point.]

#### Deliberation Session

142. The Chairman, by referring to Drawing A-1 of the Paper, stated that the workshop located at the northern part of the application site was away from the residential dwellings in the south-west of the site. Noting that no workshop use had been approved by the Board/Committee in the previous permissions granted, the Chairman asked what the current situation was on site and whether minor workshop was found on site during the planning approval periods of the previous permissions.

143. Mr. Ernest C.M. Fung stated that the site had been cleared since the rejection of the previous application (No. A/YL-LFS/229) for temporary open storage of construction materials by the Committee on 2.12.2011. During the site inspection when that application (No. A/YL-LFS/229) was being processed, the site was used for open storage of construction metal frames only although the applicant sought planning approval for temporary open storage of marble and construction materials. By referring to Appendix III of the Paper, Mr. Fung said that the site had never been approved for minor workshop use under the previous planning permissions granted since 1996. In this regard, should the current application be approved, the applicant might choose to store construction materials only or both construction materials and marble but in any case, no workshop use should be allowed on site in view of the potential adverse environmental nuisance to the residents nearby.



144. After further deliberation, the Committee decided to approve the application (except ancillary minor workshop) on a temporary basis for a period of 1 year until 20.1.2013, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 7:00 p.m. to 7:00 a.m. was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays was allowed on the site during the planning approval period;
- (c) no vehicle exceeding 24 tonnes as defined in the Road Traffic Ordinance, including heavy goods vehicle, was allowed to enter, park or operate at the site during the planning approval period;
- (d) no vehicle over 10m long, including container vehicle/trailer/tractor, was allowed to enter, park or operate at the site during the planning approval period;
- (e) the stacking height of materials stored within 5m of the periphery of the site should not exceed the height of the boundary fence during the planning approval period;
- (f) no handling (including dismantling, loading, unloading and storage) of electrical/electronic appliances, computers/computer parts/wastes, cathode-ray tubes (CRT), CRT computer monitors/television sets/equipment was allowed on the site during the planning approval period;
- (g) no open storage of recyclable materials was allowed on the site during the planning approval period;
- (h) no cutting, dismantling, cleansing, melting, repairing, compaction and

workshop activity was allowed on the site during the planning approval period;

- (i) no material was allowed to be stored within 1m of any tree on the site during the planning approval period;
- (j) the existing drainage facilities implemented under the previous approved applications No. A/YL-LFS/211 should be maintained at all times during the planning approval period;
- (k) the submission of a condition record of the existing drainage facilities on site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 20.4.2012;
- (l) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 2.3.2012;
- (m) the submission and implementation of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of Director of Fire Services or of the TPB by 20.7.2012;
- (n) the submission and implementation of landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of Director of Planning or of the TPB by 20.7.2012;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h), (i) or (j) was not complied with at any time during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (p) if any of the above planning conditions (k), (l), (m) or (n) 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

- (q) 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.

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

- (a) the permission was given to the proposed temporary open storage of marble and construction materials under application. It did not condone the ancillary minor workshop use under application and any other use/development not covered by the application;
- (b) to note that a shorter approval period of 1 year and correspondingly shorter compliance periods were granted in order to monitor the situation on-site;
- (c) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Scheduled Agricultural Lots held under the Block Government Lease under which no structure was allowed to be erected without prior approval of the Government, and to apply to him for occupation of the government land (GL) involved, and to permit structures to be erected or regularize any irregularities on-site. Such application would be considered by Lands Department (LandsD) acting in the capacity as landlord at its sole discretion and there was no guarantee that such application would be approved. If such application was approved, it would be subject to such terms and conditions, including among others, the payment of premium/fees, as might be imposed by LandsD. He did not guarantee right-of-way through the informal local track from the site to Deep Bay Road on GL and other private land or provide maintenance works for GL involved;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects

of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance;

- (f) to note the 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;
- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided at the site entrance to prevent surface water running from the site to the nearby public roads and drains through the run in/out;
- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that all information provided in the landscape and tree preservation proposal (i.e. existing tree numbers and application boundary) should be clear and adequate;
- (i) to note the comments of the Director of Fire Services in Appendix V of the Paper and to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to him for approval. Detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s). The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. The applicant should also adhere to the 'Good Practice for Open Storage' at Appendix VI of the Paper. Should the applicant wish to apply for exemption from the provision of certain FSIs, the applicant was required to provide justifications to him for consideration;
- (j) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that prior approval and consent of the Building

Authority (BA) should be obtained before any new building works, including any temporary structures, were to be carried out on the site. Otherwise, they were unauthorised building works (UBW). An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO). Enforcement action might be taken by the BA to effect the removal of unauthorised building works UBW erected on the site in accordance with BD's enforcement policy against UBW as and when necessary. The granting of planning approval should not be construed as acceptance of any existing building works or UBW on the site under the BO; and

- (k) to follow the 'Code of Practice for Safe Use of Mobile Cranes' issued by the Commissioner for Labour should there be any operational need to use cranes to load/unload the materials stored.

## **Agenda Item 28**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/632      Renewal of Planning Approval for Temporary "Open Storage of Porcelain Products/Sanitary Utensils" Use under Application No. A/YL-PH/576 for a Period of 3 Years in "Agriculture" zone, Lots 20 (Part), 21, 22 (Part), 23 (Part), 24 (Part), 25 (Part), 27 S.A (Part), 42 (Part) and 43 (Part) in D.D. 108 and Adjoining Government Land, Pat Heung, Yuen Long  
(RNTPC Paper No. A/YL-PH/632)

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### **Presentation and Question Sessions**

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

- (a) background to the application;

- (b) the renewal of planning approval for temporary “open storage of porcelain products/sanitary utensils” use under Application No. A/YL-PH/576 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 located in the vicinity of the site and environmental nuisances were 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 further period of three years 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. Although the site fell within the “AGR” zone, DAFC had no adverse comment on the application. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the zone. The site was the subject of six previous approvals for the same applied use granted since 1998. The development was generally in line with the TPB Guidelines No. 13E in that the site had previously been granted with planning approvals. Relevant government departments consulted in general had no objection to the renewal of the application. Although the District Lands Officer/Yuen Long (DLO/YL) was of the view that the total built-over area of the existing structures on the site was substantially larger than the one applied under the current application, the issue of concern was on land administration. To address the concern of DLO/YL, an advisory clause reminding the applicant to apply for amendment to the existing STW and STT was recommended. While DEP did not support the application, there had not been any substantiated environmental complaint in the past three

years and no local objection against the application had been received. To address DEP's concern, relevant approval conditions restricting operational hours, workshop activities and requiring the maintenance of drainage facilities and landscape planting on the site were stipulated. The last approval (Application No. A/YL-PH/576) was revoked due to non-compliance with the approval condition related to the provision of fire service installations (FSIs) for the site but all other planning conditions had been complied with. The applicant had demonstrated his genuine efforts in complying with the subject planning condition by making several rounds of submissions to the Director of Fire Services (D of FS) for consideration, and D of FS had indicated on 5.1.2012 that the FSIs implemented on-site were considered acceptable. Nevertheless, shorter compliance periods were proposed to monitor the progress of compliance.

147. Members had no question on the application.

#### Deliberation Session

148. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 20.1.2015, 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 7:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out on the site at any time during the planning approval period;
- (d) the drainage facilities implemented on the site under Application No. A/YL-PH/576 should be maintained at all times during the planning

approval period;

- (e) the existing trees and landscape planting on the site should be maintained at all times during the planning approval period;
- (f) the submission of a record of the existing drainage facilities on the site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 20.4.2012;
- (g) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 2.3.2012;
- (h) the submission and implementation 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 20.7.2012;
- (i) 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;
- (j) if any of the above planning conditions (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; and
- (k) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to resolve any land issue relating to the development with other concerned owners of the site;



- (b) shorter compliance periods were proposed to monitor the progress of compliance of planning conditions;
- (c) 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;
- (d) to note the comments of the District Lands Officer/Yuen Long that no structures were allowed to be erected without prior approval of the Government. Among the lots involved, Lots 20 to 25 and 42 were covered by Short Term Waiver (STW) No. 2559 for ancillary use to storage of porcelain/sanitary utensils with structures of permitted built-over area (BOA) of 4,844.5m<sup>2</sup> and 6m in height. Most of the government land (GL) within the site was covered by Short Term Tenancy (STT) No. 1724 for storage of porcelain/sanitary utensils with ancillary structures of BOA of 444.7m<sup>2</sup> and 5m in height. For the rest of the GL involved, no permission had been given for its occupation. The site was accessible from Fan Kam Road via private land and GL. His office did not provide maintenance works on the GL nor guarantee right of way. His recent site inspection revealed that the total BOA of the existing structures on the site was 7,688m<sup>2</sup> which was substantially larger than the one applied under the current application and the one approved under the previous application No. A/YL-PH/576. The applicant was advised to re-submit the application afresh accordingly. His office reserved the right to take enforcement action against any breach under STW 2559 and STT 1724. The lot owner and occupier of the GL concerned needed to apply to his office to permit any additional/excessive structures to be erected or regularize any irregularities on-site. Such application would be considered by 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;

- (e) 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 the Transport Department. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibilities of the local access road 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 the access track leading to the site from Fan Kam Road was not maintained by his department;
- (g) to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by Environmental Protection Department to adopt environmental mitigation measures to minimize any possible environmental nuisances;
- (h) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposed structures, fire service installations (FSIs) were anticipated to be required. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his office for approval. The applicant was advised to make reference to the requirements in Appendix IV of the Paper. Should the applicant wish to apply for exemption from the provision of certain FSIs as prescribed by his department, the applicant should provide justifications to his department for consideration;
- (i) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that existing water mains in the vicinity of the site would be affected. The developer should bear the cost of any necessary diversion works affected by the proposed development. In case it was not feasible to divert the affected water mains, a Waterworks Reserve within 1.5m from the centreline of the water mains should be provided to

WSD. No structure should be erected over the 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. Water mains in the vicinity of the site could not provide the standard pedestal hydrant;

- (j) to note the comments of the Director of Electrical and Mechanical Services that the applicant and/or his contractor should approach the electricity supplier for the requisition of cable plans to find out whether there was any underground cable (and/or overhead line) within or in the vicinity of the site. Based on the cable plans obtained, if there was underground cable (and/or overhead line) within or in the vicinity of the site, prior to establishing any structure within the site, the applicant and/or his contractors should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure. The 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines;
- (k) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that all unauthorised structures on the site should be removed. All building works were subject to compliance with the Buildings Ordinance (BO). Authorised Person had to be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorised structures on site under the BO. Enforcement action might be taken to effect the removal of all unauthorised works in the future; and
- (l) to note the comments of the Director of Agriculture, Fisheries and

Conservation that there were two semi-natural stream sections immediately adjacent to the western and eastern site boundary. The applicant should adopt appropriate measures to avoid disturbing the stream and its embankments, and prevent polluting the stream during site operation.

**Agenda Item 29**

Section 16 Application

[Open Meeting]

A/YL-PH/633            Temporary Eating Place for a Period of 3 Years  
in “Village Type Development” zone,  
G/F, 189 Wing Ning Lei, Wang Toi Shan, Pat Heung, Yuen Long  
(RNTPC Paper No. A/YL-PH/633)

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150.            The Committee noted that the applicant’s representative requested on 6.1.2012 for a deferment of the consideration of the application for two months in order to allow more time to prepare sufficient information on the application.

151.            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 30**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/635            Temporary Building Materials and Automotive Parts Storage  
Yard and Ancillary Staff Canteen for a Period of 3 Years  
in “Agriculture” zone,  
Lots 1832 RP (Part) and 1861 (Part) and  
Adjoining Government Land in D.D. 111, Pat Heung, Yuen Long  
(RNTPC Paper No. A/YL-PH/635)

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**Presentation and Question Sessions**

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

- (a)    background to the application;
- (b)    the temporary building materials and automotive parts storage yard and ancillary staff canteen 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 nuisances were expected. He, however, indicated that there was no environmental complaint against the site in the past three years. The Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on 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 considered that the

temporary use under application could be tolerated for a period of three years based on the assessment made in paragraph 12 of the Paper. According to the TPB Guidelines No. 13E, the site fell within Category 3 areas where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals. The surrounding land uses of the site were intermixed, and the areas to the further east of the site were zoned “Open Storage”, which were Category 1 areas under TPG Guidelines No. 13E. Also, the area to the west and southwest of the site was proposed for the Shek Kong Stabling Sidings (SKSS) (i.e. rail tracks). Once built, the SKSS development would change the landscape character of the surrounding area permanently, and lessen the existing rural character, hence the landscape impact of the proposed development would not be significant. Relevant government departments had no objection to or no comment on the application. To address DAFC’s concern, an approval condition requiring the applicant to reinstate the site to a condition suitable for agricultural use was recommended. As regards DEP’s concern about the potential environmental nuisances from the site, the applicant had indicated that only light goods vehicles below 5.5 tonnes would be used, and approval conditions restricting the operation hours and types of vehicles, and prohibiting workshop activities were recommended. Besides, similar planning applications (Nos. A/YL-PH/608 and 616) had previously been approved for temporary open storage uses by the Committee on 28.1.2011 next to the site. Moreover, in the light of the changes to be effected by the XRL project, the categorization of the areas under the TPG Guidelines No. 13E was being reviewed.

153. Members had no question on the application.

#### Deliberation Session

154. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 20.1.2015, 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 5:30 p.m. and 7:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities, as proposed by the applicant, should be carried out on the site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes), including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, was allowed to park/store on or enter/exit the site at any time during the planning approval period;
- (e) 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 20.7.2012;
- (f) in relation to (e) 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 20.10.2012;
- (g) the submission of landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 20.7.2012;
- (h) in relation to (g) above, the implementation of landscape proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 20.10.2012;
- (i) 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 20.7.2012;

- (j) in relation to (i) 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 20.10.2012;
- (k) if any of the above planning conditions (a), (b), (c) or (d) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (m) upon expiry of the planning permission, the reinstatement of the site, at the applicant's own cost, to a condition which was suitable for agricultural uses with a view to preserving agricultural land to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the TPB.

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

- (a) to resolve any land issue relating to the development with the concerned owners of the site;
- (b) to note the comments of the District Lands Officer/Yuen Long that no structures were allowed to be erected without prior approval of the Government. No approval had been given for the specified structures for office, toilet, canteen and meter room. No permission had been given for occupation of the government land (GL) within the site. The site was accessible to Kam Tin Road via GL and private land. His office did not provide maintenance works on the GL nor guarantee right-of-way. The lot owner and occupier of the GL concerned needed 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;

- (c) 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 his office. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibility of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to adopt environmental mitigation measures as set out in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection (DEP) to alleviate any potential environmental nuisance. Also, the applicant was reminded of his obligation to comply with the Water Pollution Control Ordinance by applying for a discharge licence from DEP's Regional Office (North) should there be any effluent discharge from the site;
- (e) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposed structures, fire service installations (FSIs) were anticipated to be required. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The applicant should clarify on whether open storage being involved in the site. 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;

- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that if the existing structures were erected on leased land without approval of the BD, they were unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. For unauthorised building works (UBW) erected on leased land, enforcement action might be taken by the Building Authority (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. The temporary converted containers/structures/open shed for storage/canteen/office were considered as temporary buildings. They were subject to control under the Building (Planning) Regulations (B(P)R) Pt. VII. Before any new building works were to be carried out on the site, prior approval and consent of the BA should be obtained. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. If the proposed use under the application was subject to the issue of a licence, the applicant should be reminded that any existing structures on the site intended to be used for such purposes were required to comply with the building safety and other relevant requirements as might be imposed by the licensing authority. The site should be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access should be provided under the B(P)R 4ID. If the site was not abutting a specified street having a width not less than 4.5m, the development intensity should be determined under the B(P)R 19(3) at the building plan submission stage;
  
- (g) 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/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. Water mains in the vicinity of the site could not provide the standard pedestal hydrant;

- (h) 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. Based on the cable plans obtained, if there was underground cable (and/or overhead line) within or in the vicinity of the site. For the 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 and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure. The 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines; and
  
- (i) to note the comments of the Director of Food and Environmental Hygiene that the meal takers had to be restricted to the workers of a designated work place, otherwise a food licence granted by his office was required. The applicant should be advised to prevent creating environmental nuisance affecting the public.

**Agenda Item 31**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-SK/167            Renewal of Planning Approval for Temporary “Shop and Services (Real Estate Agency)” Use under Application No. A/YL-SK/160 for a Period of 3 Years in “Village Type Development” zone, Lot 225 S.D (Part) in D.D. 112, Lai Uk Tsuen, Kam Sheung Road, Yuen Long  
(RNTPC Paper No. A/YL-SK/167)

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**Presentation and Question Sessions**

156.        Mr. W.W. Chan, 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 “shop and services (real estate agency)” use for a period of three years;
- (c)    departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d)    five public comments from the Rural Association and the Indigenous Inhabitant Representative of Pat Heung Sheung Tsuen, and three local villagers were received during the first three weeks of the statutory publication period. All the commenters objected to the application mainly on the grounds of adverse drainage and environmental impacts on the surrounding area, traffic safety and structural safety problems brought about by the development, and the possible impact of the development on the declared monument of Chik Kwai Study Hall near the site; and
- (e)    the Planning Department (PlanD)’s views – PlanD considered that the

temporary use under application could be tolerated for a further period of three years based on the assessment made in paragraph 12 of the Paper. The development comprising two single-storey structures was of relatively small scale. It was located by the side of a major road and was considered not incompatible with the surrounding rural environment. Although it was not entirely in line with the planning intention of the “Village Type Development” (“V”) zone, similar ‘Shop and Services’ use on the ground floor of a NTEH was always permitted within the “V” zone, and the District Lands Officer/Yuen Long advised that there was currently no Small House application received for the site. As such, the approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone. The application was generally in line with the TPB Guidelines No. 34B in that there had been no material change in the planning circumstances since the granting of the previous temporary approval under Application No. A/YL-SK/160; and all the conditions of the previous approval had been complied with. Government departments consulted had no adverse comment on the application. The concerns of departments on the drainage, landscaping and fire safety aspects could be addressed by the stipulation of approval conditions. Although there were local objections to the application, it should, however, be noted that the site had been used for the applied use since 2009 and there was no record of the occurrence of the problems raised by the commenters, and concerned departments consulted had no adverse comment on the application.

157. Members had no question on the application.

#### Deliberation Session

158. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years from 29.1.2012 to 28.1.2015, 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 boundary fence on the application site should be maintained at all times during the planning approval period;
- (c) the existing trees and landscape plantings on the application site should be maintained at all times during the planning approval period;
- (d) the existing drainage facilities implemented under Application No. A/YL-SK/152 on the application site should be maintained at all times during the planning approval period;
- (e) the submission of a record of the existing drainage facilities on the application site within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 28.7.2012;
- (f) the submission 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 28.7.2012;
- (g) in relation to (f) above, the implementation of fire service installations proposal within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.10.2012;
- (h) if any of the above planning conditions (a), (b), (c) or (d) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (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; 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.

159. 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 that the lot owner would need to apply to his office to permit any additional/excessive 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 from Kam Sheung Road via private land and government land (GL). His office did not provide maintenance works on this GL nor guarantee right-of-way;
- (c) 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 his 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;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department was not 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 revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (the COP) should be followed. According to the COP, sewage discharge from the site should be directed to nearby public sewer. In case of unavailability of public sewer, a septic tank and soak-away pit should be provided. The applicant should design and maintain the septic tank and soak-away pit according to the ProPECC Note No. 5/93 requirements;
  
- (f) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that existing water mains would be affected. The developer should bear the cost of any necessary diversion works affected by the development. In case it was not feasible to divert the affect water mains, Waterworks Reserve with 1.5m measuring from the centreline of the affected water mains should be provided to WSD. No structure should be erected over this Waterworks Reserve and such area should not be used for storage or car parking purposes. The Water Authority, his officers and contractors and 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. No trees/shrubs should be planted within the waterworks reserve;
  
- (g) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposed structures, fire service installations (FSIs) were anticipated to be required. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In formulating FSIs proposal for the proposed structures, the applicant was advised to make reference to the requirements that, for other open storage, open shed or enclosed structure with total floor area less than 230m<sup>2</sup> with access for emergency vehicles to reach 30m travelling distance to structures, portable hand-operated



approved appliances should be provided as required by occupancy and should be clearly indicated on plans. 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. 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;

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that unauthorised structures on-site were liable to action under section 24 of the Buildings Ordinance (BO). The granting of planning approval should not be construed as condoning to any unauthorised structures existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structures, for approval under the BO was required. If the site did not abut a specified street having a width of not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at the building plan submission stage. The applicant's attention was also drawn to the requirements on provision of emergency vehicular access under B(P)R 41D; and
  
- (i) to note the comments of the Director of Leisure and Cultural Services that the site was situated at the entrance of the main vehicular access leading to Chik Kwai Study Hall which was a declared monument under the Antiquities and Monuments Ordinance (Cap. 53). The applicant should ensure that the applied use would not cause any disturbance to the traffic and the visitors to the Study Hall.

**Agenda Item 32**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TT/298            Temporary Open Storage of Site Tools and Materials and Site Office  
for a Period of 3 Years in “Village Type Development” zone,  
Lot 4888 RP (Part) in D.D. 116 and Adjoining Government Land,  
Tai Tong Road, Yuen Long  
(RNTPC Paper No. A/YL-TT/298)

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**Presentation and Question Sessions**

160.        Mr. W.W. Chan, 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 site tools and materials and site office 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 nuisances were expected. He further advised that there was one public complaint referred from the District Lands Officer/Yuen Long (DLO/YL) regarding land filling, erection of structures and change of use on the site received in the past three years;
- (d) two public comments from three local villagers were received during the first three weeks of the statutory publication period. The commenters objected to the application and stated that enforcement action should be taken against the site before considering the application; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the

application based on the assessment made in paragraph 12 of the Paper. According to the TPB Guidelines No. 13E, the site fell within Category 4 areas where applications would normally be rejected except under exceptional circumstances. The development was not in line with the planning intention of the “Village Type Development” (“V”) zone on the OZP and was incompatible with the surroundings rural and residential land uses. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis. The development was not in line with the TPB Guidelines No.13E in that there was no exceptional circumstances to merit approval of the case and there was no previous planning approval granted for the site. There were also adverse departmental comment from DEP and local objections on the potential adverse impacts of the development. Besides, two areas of some 28.22 ha were zoned “Open Storage” (“OS”) on the OZP to cater for the demand of land for open storage uses. However, there was no information in the submission to demonstrate why suitable sites within these “OS” zones could not be made available for the development. Moreover, no planning approval had been given for similar uses in the vicinity of the subject “V” zone. The application was also different from the temporary shop and services (real estate agency) (Application No. A/YL-TT/289) to its east approved by the Committee on 19.8.2011 which could serve the neighbouring residential developments and would unlikely generate environmental nuisances. In this regard, approval of the application would set an undesirable precedent for other similar uses to proliferate into the zone. There were two objecting public comments from three indigenous villagers of Yuen Long on the application stating that enforcement action should be taken against the applied use before considering the application without setting bad precedent.

161. Members had no question on the application.

#### Deliberation Session

162. The Chairman referred to Plan A-2 of the Paper and said that the areas to the west

of Tai Tong Road in the vicinity of the site were predominated by residential dwellings and hence the temporary use under application should not be approved.

163. 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 “Village Type Development” zone on the Outline Zoning Plan (OZP), which was to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the zone was primarily intended for development of Small Houses by indigenous villagers. It was also intended to concentrate village type development within the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. The development was incompatible with the surroundings which was predominantly rural and residential in character. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the development was not in line with the Town Planning Board Guidelines No.13E for “Application for Open Storage and Port Back-up Uses” in that there was no exceptional circumstances to merit approval of the case, there was no previous planning approval granted for the site and there were adverse departmental comment and local objections against the applied use. There was no information in the submission to demonstrate that the development would not cause adverse environmental impact on the surrounding area;
- (c) two areas were zoned “Open Storage” (“OS”) on the Tai Tong OZP to cater for the use under the application. There was no information in the submission to demonstrate why suitable sites within these “OS” zones could not be made available for the development; and
- (d) 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.

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

### **Agenda Item 33**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/546 Proposed Temporary Shop and Services (Temporary Traffic Engineering Highway Sub-station and Sale Office of Traffic Engineering Equipment with Ancillary Display Area) for a Period of 3 Years in “Residential (Group D)” zone, Lots 969 (Part) and 972 RP (Part) in D.D. 121 and Adjoining Government Land, Shan Ha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-TYST/546)

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

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

- (a) background to the application;
- (b) the proposed temporary shop and services (temporary traffic engineering highway sub-station and sale office of traffic engineering equipment with ancillary display area) 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 the local villagers were received during the first three weeks of the statutory publication period. All the commenters objected to the application mainly on the grounds of land use incompatibility, violation of the planning intention, generation of traffic, environmental, drainage and sewage impacts, commencement of storage use without planning approval, and provision of insufficient information on the type of goods to be displayed; and

[Dr. W.K. Lo returned to join the meeting at this point.]

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 12 of the Paper. According to the TPB Guidelines No.13E, the site fell within Category 3 areas where applications would normally not be favourably considered unless the applications were on sites with previous planning approvals. The proposed temporary shop and services use was for providing supporting services to highway maintenance operation and for displaying, selling and renting the traffic engineering equipment. Having regard to the nature and scale of operation, it was more akin to an open storage yard rather than a retail shop serving the surrounding neighbourhood. It was therefore not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone and was incompatible with the residential use in the surrounding area. Although there were storage yards and workshops in its vicinity, they were mostly suspected unauthorised developments. No strong planning justification had been given in the submission to justify 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 approval granted at the site and there were adverse comment from DEP on the application as well as local objections. Moreover, the applicant had not included any technical assessment/proposal in the submission to demonstrate that the proposed development would not generate adverse environmental impact. Although 10 similar applications for temporary open storage uses in the same “R(D)” zone had been approved either by the Committee or the Board

on review previously, these applications were all approved before 2002 and prior to the classification of the site into the current 4 categories under the previous TPB Guidelines No. 13D. Since 26.10.2001, no further similar application for storage use had been approved. In this regard, the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications to proliferate into the “R(D)” zone. There were three public objections to the application mainly on traffic, environmental, drainage, sewage and land use incompatibility grounds.

165. Members had no question on the application.

#### Deliberation Session

166. 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, which was more akin to an open storage yard rather than a retail shop serving the surrounding residential neighbourhood, was not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (b) the application did not comply with the Town Planning Board Guidelines No. 13E in that no previous planning approval had been granted for the use on the site, no relevant technical assessments had been included in the submission to demonstrate that the development would not generate adverse environmental impact on the surrounding area, and there were adverse departmental comments on and local objections to the application. The development was also not compatible with the current and planned

residential use in the surrounding area; and

- (c) as no approval for similar uses had been granted in the subject “R(D)” zone since 2002, approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

### **Agenda Item 34**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/565      Temporary Warehouse for Storage of Sanitary Ware, Metal Ware, Machinery and Spare Parts for a Period of 3 Years in “Residential (Group C)” and “Undetermined” zones, Lots 1265 (Part), 1266 (Part), 1269 (Part), 1270 (Part), 1271 (Part), 1272 (Part), 1273 (Part), 1275 (Part), 1276 (Part), 1277 S.A, 1277 RP (Part), 1279 S.B (Part) and 1279 S.B ss.1 S.F in D.D. 119 and Adjoining Government Land, Pak Sha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-TYST/565)

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

167.      Mr. W.W. Chan, STP/TMYL, said that replacement pages 9 to 15 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 warehouse for storage of sanitary ware, metal ware, machinery and spare parts 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. He, however, indicated there was no environmental complaint against the site received in the past three years;

- (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 three years based on the assessment made in paragraph 11 of the Paper. A major part of the site fell within the “Undetermined” (“U”) zone and only a minor portion encroached onto the “Residential (Group C)” zone. The applied warehouse for storage use was not in conflict with the planning intention of the “U” zone and it was not incompatible with the surrounding area which were mainly mixed warehouses, storage yards and workshops uses. Planning permissions for the same use at the site had been granted since 2006, and the development had existed continuously since then. The approval conditions of last application (No. A/YL-TYST/409) had been complied with by the applicant. There had been no major change in the site circumstances since the last approval. As there was no known programme for permanent development, approval of the application on a temporary basis would not frustrate the long-term use of the area. Although DEP did not support the application, the development was proposed for storage purpose mainly in an enclosed warehouse structure and there had not been any environmental complaint in the past three years. The applicant also committed not to operate the site during night time and on Sundays and public holidays. To address DEP's concerns, approval conditions restricting the operation hours, prohibiting open storage and workshop activities and restricting the use of medium and heavy goods vehicles were recommended. Other government departments consulted generally had no adverse comment on the application.

168. Members had no question on the application.

### Deliberation Session

169. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 20.1.2015, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 7:00 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 storage was allowed at the open areas of the application site at any time during the planning approval period;
- (d) no repairing, dismantling, cleansing or other workshop activities should be carried out on the application site at any time during the planning approval period;
- (e) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, was allowed to park/store on or enter/exit the application site at any time during the planning approval period;
- (f) 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 20.7.2012;
- (g) in relation to (f) 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 20.10.2012;

- (h) 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 20.7.2012;
- (i) in relation to (h) 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 20.10.2012;
- (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 20.7.2012;
- (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 20.10.2012;
- (l) 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;
- (m) if any of the above planning conditions (f), (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.

170. 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 that Lots 1265 and 1273 in D.D. 119 were covered by Letter of Approval No. MT/LM 6775 to allow erection of agricultural structures on the land. However, no approval had been given to allow the specified structures including warehouses for storage, caretaker's room and fire service installations (FSIs) on the site and no permission had been given for occupation of the government land (GL) within the site. The concerned lot owners and occupiers of GL 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 village track on GL and other private land extended from Kung Um Road. His office did not provide maintenance works for this track nor guarantee right-of-way. Part of the government land was temporarily allocated to the Drainage Services Department for the "PWP Item 4368DS – Yuen Long South Branch Sewers" project;
- (c) 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;
- (d) 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 application site and Kung Um Road. Moreover, adequate drainage measures should be provided at the site entrance to prevent surface water from running from the site to the nearby public roads and drains through the run-in/out;

- (e) 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;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the numbers and locations of the existing trees as shown on the submitted tree preservation and landscape proposals did not tally with that as indicated on the as-planted plan submitted by the applicant on 25.5.2009 under the previous application. All the existing and proposed trees should be clearly marked and differentiated on plan by using two different symbols in order to avoid confusion;
- (g) to note the comments of the Director of Fire Services on the requirements on formulating 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;
- (h) 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. Prior to establishing any structure within the site, the applicant and/or his contractors should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure. The 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines; and

- (i) 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 unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the subject planning application. Enforcement action might be taken by the BA to effect removal of any such unauthorised building works (UBW) 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. If new warehouse, caretaker's room and fire services pump room were proposed, they were considered as temporary buildings that were subject to control under the Building (Planning) Regulations (B(P)R) Part VII. Formal submission under the BO was required for any proposed new works, including any temporary structures. Before any new building works were to be carried out on the site, the prior approval and consent of the BA should be obtained. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance of the BO. The site should be provided with means of obtaining access thereto from a street under B(P)R 5 and emergency vehicular access should be provided under B(P)R 41D. If the site did not abut a specified street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage.

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

**Agenda Item 35**

Any Other Business

171.        There being no other business, the meeting closed at 5:30 p.m..