

**Minutes of 1055th Meeting of the
Town Planning Board held on 28.3.2014**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Mr Timothy K.W. Ma

Professor Edwin H.W. Chan

Mr Rock C.N. Chen

Professor P.P. Ho

Ms Julia M.K. Lau

Mr Laurence L.J. Li

Mr Roger K.H. Luk

Ms Anita W.T. Ma

Dr W.K. Yau

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Patrick H. T. Lau

Mr Stephen H.B. Yau

Mr F.C. Chan

Deputy Director of Environmental Protection

Mr. C.W. Tse

Assistant Director (2), Home Affairs Department

Mr Eric K.S. Hui

Director of Lands

Ms Bernadette H.H. Linn

Director of Planning

Mr K.K. Ling

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Mr Maurice W.M. Lee

Professor Eddie C.M. Hui

Dr C.P. Lau

Mr Clarence W.C. Leung

Ms Bonnie J.Y. Chan

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Dominic K.K. Lam

Ms Christina M. Lee

Mr H. F. Leung

Principal Assistant Secretary for Transport and Housing
Miss Winnie M.W. Wong

In Attendance

Assistant Director of Planning/Board
Ms Brenda K.Y. Au

Chief Town Planner/Town Planning Board
Mr Louis K. H. Kau

Senior Town Planner/Town Planning Board
Ms Amy M.Y. Wu

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1045th Meeting held on 4.11.2013, 5.11.2013, 6.11.2013, 11.11.2013, 13.11.2013, 18.11.2013, 19.11.2013, 20.11.2013, 25.11.2013, 27.11.2013, 29.11.2013, 2.12.2013, 4.12.2013, 9.12.2013, 10.12.2013, 11.12.2013, 18.12.2013 and 14.2.2014

[This item was conducted in Cantonese.]

1. The Secretary reported that there was a minor adjustment in the paragraph numbering of the draft minutes of the first session of the meeting held on 4.11.2013. A replacement page 18 was tabled at the meeting. The minutes of the 1045th Meeting were confirmed with the amendment as shown on the replacement page.

Agenda Item 2

[Open Meeting]

Confirmation of Minutes of the 1054th Meeting held on 14.3.2014

[This item was conducted in Cantonese.]

2. The minutes of the 1054th Meeting held on 14.3.2014 were confirmed without amendments.

Agenda Item 3

Matters Arising (i)

[Closed Meeting]

3. This item was recorded under Confidential cover.

Matter Arising (ii)

[Open Meeting] [This item was conducted in Cantonese]

Approval of Draft Outline Zoning Plans (OZP) and Development Permission Area (DPA) Plan

4. The Secretary reported that, on 11.3.2014, the Chief Executive in Council (CE in E) approved the following draft plans under section 9(1)(a) of the Town Planning Ordinance (the Ordinance):

- (a) Aberdeen & Ap Lei Chau Outline Zoning Plan (OZP) (renumbered as S/H15/29);
- (b) Ho Chung OZP (renumbered as S/SK-HC/11); and
- (c) Kuk Po, Fung Hang & Yung Shue Au Development Permission Area Plan (renumbered as DPA/NE-KP/2).

5. The approval of the above plans was notified in the Gazette on 21.3.2014.

Reference Back of Approved Outline Zoning Plans (OZPs)

6. The Secretary reported that, on 11.3.2014, the Chief Executive in Council referred the following approved plans to the Board for amendment under section 12(1)(b)(ii) of the Ordinance:

- (a) Stanley OZP No. S/H19/10;
- (b) Lamma Island OZP No. S/I-LI/9; and
- (c) Ping Shan OZP No. S/YL-PS/14.

7. The reference back of the above plans was notified in the Gazette on 21.3.2014.

Fanling, Sheung Shui and Yuen Long East District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-NTM/292

Temporary Cargo Handling, Forwarding Facilities and Container Vehicle Park for a Period of 3 Years in “Open Storage” Zone, Lots 1376 (Part), 1377 (Part), 1378, 1379 (Part) and 1381 (Part) in D.D. 102 and Adjoining Government Land, Ngau Tam Mei, Yuen Long (TPB Paper No. 9538)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

8. The following representative of Planning Department (PlanD) and the applicant’s representative were invited to the meeting at this point:

- | | | |
|-----------------|---|---|
| Ms Maggie Chin | - | District Planning Officer/Fanling, Sheung Shui and Yuen Long East (DPO/FS&YLE), PlanD |
| Mr Yiu Tak Ming | - | Applicant’s representative |

9. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/FS&YLE to brief Members on the review application.

10. With the aid of a Powerpoint presentation, Ms Maggie Chin made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for temporary cargo handling, forwarding facilities and container vehicle park for a period of 3 years at a site zoned “Open Storage” (“OS”) on the approved Ngau Tam Mei Outline Zoning Plan (OZP);

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 27.9.2013 and the reasons were:
- (i) the temporary cargo handling, forwarding facilities and container vehicle park was not in line with the Town Planning Board Guidelines No. 13E for Application for Temporary Open Storage and Port Back-up Uses (TPB PG No.13E) in that there were adverse departmental comments from environmental and traffic aspects and also objection from local resident;
 - (ii) there was no technical assessment in the submission to demonstrate that the development would not have adverse impacts on environment and traffic safety; and
 - (iii) four previous planning permissions granted to the applicant under applications No. A/YL-NTM/217, 237, 241 and 272 were revoked due to non-compliance with approval conditions. Approval of the application with repeated non-compliance would set an undesirable precedent for other similar planning applications for temporary uses which were also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control;
- (c) the site was about 2,322m² (including about 250m² Government land (GL)). It comprised 5 structures with a non-domestic gross floor area (GFA) of 424.5m². There were 5 loading/unloading and parking spaces for goods vehicles and 10 loading/unloading and parking spaces for container vehicles. The operation hours were between 8:00 a.m. and 10:00 p.m. from Monday to Saturday and between 9:00 a.m. and 6:00 p.m. on Sunday and public holidays. The site was currently being used for the applied uses without valid planning permission;
- (d) the site was accessible at the north-east of the site via a local track leading to Ka Lung Road. To its north were some vacant temporary structures,

residential dwellings (the closest one being about 1m away), some stores and a vegetable co-operative society, which were existing uses, and some open storage yards of construction materials. Further north across Ka Lung Road were open storage yards of construction materials and metal barrels. To its east across Ka Lung Road was San Tin Barracks. To its immediate south were a vehicle repair workshop and an open storage yard of recyclable materials. Further south were scattered vacant temporary structures and residential dwellings. To its west were cultivated/fallow agricultural land, unused land and vacant land;

- (e) the site fell within the Category 1 areas under TPB PG No. 13E. Favourable consideration would normally be given to applications within these areas subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents could be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses might cause significant environmental and traffic concerns;
- (f) the justifications put forth by the applicant in support of the review application were summarised as follows:
 - (i) the applicant explained why the approval conditions of the 4 previous applications had not been complied with and thus the planning permissions were subsequently revoked:
 - application No. A/YL-NTM/217: It was the first planning permission and the applicant had no experience in complying with the approval conditions;
 - application No. A/YL-NTM/237: He had completed the landscape and drainage works, and the submitted fire service installations (FSI) proposal was considered acceptable. However, the approved use of cargo handling and forwarding facilities did not suit his company and he intended to submit a

fresh application. Hence, the planning permission was revoked due to non-compliance with approval conditions within the specified time limit;

- application no. A/YL-NTM/241: He had complied with the approval conditions on the submission/implementation of landscaping and tree preservation and drainage proposals. However, the works for the provision of water supply for the FSI had not been commenced. Before the expiry of the planning permission, he submitted another application;
 - application no. A/YL-NTM/272: It was revoked due to non-compliance with the approval condition on operation hours. However, this was due to his neighbours' vehicles routing through his site;
 - he had made efforts to comply with the approval conditions on landscape and drainage works, and applied to the Lands Department for leasing GL;
- (ii) the applicant provided responses to address the comments of the relevant departments on the subject application:
- the closest residential dwelling was about 1m to the north of the site. No complaint had been received from the nearby residents on the noise, environmental and drainage aspects;
 - he had requested all drivers of his company to reduce the driving speed to below 30 km/hour when using Ka Lung Road. This would avoid causing danger to the pedestrians;
 - the large volume of heavy goods vehicle traffic on Ka Lung Road was generated by other warehouses and recycling yards along the road. The applied use on the site would only

generate 8 vehicular trips per day in/out Ka Lung Road, viz. 5 container vehicles, 3 medium goods vehicles and 1 light goods vehicle. There were one neighbour using 8 medium goods vehicles via Access A and another neighbour using 7 light goods vehicles via Access B per week (Plan R-2d of the Paper);

- (g) previous applications – the site was the subject of 4 previous applications, all for similar temporary cargo handling and forwarding facilities and were submitted by the current applicant:
 - (i) Applications No. A/YL-NTM/217 and 237, both for cargo handling and forwarding facilities, were approved by RNTPC for a period of 2 years and 3 years respectively. These two planning permissions were revoked due to non-compliance with the approval conditions, including the submission of tree monitoring report/landscape and tree preservation proposal, drainage proposal, submission and provision of FSI proposal and the provision of paving and fencing;
 - (ii) Application No. A/YL-NTM/241 for cargo handling, forwarding facilities and container vehicle park was approved with conditions by RNTPC for a period of 3 years. Although the applicant had complied with approval conditions on the submission/implementation of landscaping and tree preservation and drainage proposals as well as the submission of FSI proposal, the provision of FSI was not complied with within the specified time limit. The planning permission was subsequently revoked;
 - (iii) prior to the revocation of Application No. A/YL-NTM/241, the applicant submitted a fresh application No. A/YL-NTM/272. The application was approved with conditions by RNTPC for a period of 3 years. The applicant had complied with the approval condition on the submission of drainage proposal while the remaining conditions were not yet complied with. The permission was revoked

due to non-compliance with the approval condition on no night-time operation after 6:00 p.m.;

- (h) similar applications – there were 22 similar applications for temporary port back-up uses, including container vehicle and lorry park, container storage and repairing workshops within the same “OS” zone. Two similar applications No. A/YL-NTM/265 and No. A/YL-NTM/289 involving container vehicles along Ka Lung Road were rejected by the RNTPC;
- (i) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. The Commissioner for Transport (C for T) did not support the application because Ka Lung Road was a substandard road not suitable for heavy vehicles. The width of Ka Lung Road varied from 5.5m to 7m with no footpath on both sides. The Transport Department had frequently received complaints from the local residents about hazard from the heavy vehicles when waiting on the roadside. The Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the site (the closest residential dwelling being about 1m away);
- (j) public comment - during the statutory publication period at the s.17 review stage, no public comment was received. At the s.16 application stage, one objecting comment from a private individual was received. The objecting reasons were that the parking of container vehicles and freight forwarding activities adversely affected the surrounding residents and the environment, and created serious noise nuisance; Ka Lung Road was a non-standard village road without footpath, which was not suitable for container vehicles; and planning permissions for the site had been revoked several times due to non-compliance with approval conditions; and
- (g) PlanD’s views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of

the Paper and summarised below:

- (i) while the applied uses did not contravene the planning intention of the “OS” zone, there was a need to ensure that the use would not generate negative impacts on the surrounding areas. The applied temporary cargo handling and forwarding facilities, and container vehicle park were Column 2 uses which required planning permission from the Town Planning Board (the Board);
- (ii) the surrounding areas of the site were mainly rural environment with vacant temporary structures and residential dwellings;
- (iii) C for T did not support the application since Ka Lung Road was a sub-standard road which was not suitable for heavy vehicles, in particular container vehicles. Although C for T had indicated no in-principle objection to the previous applications submitted by the applicant, he had concerns on the increasing heavy traffic on Ka Lung Road and there were frequent complaints from the local residents on road safety;
- (iv) DEP did not support the application on environmental ground because there were sensitive receivers in the vicinity of the site (the closest residential dwelling being about 1m to its immediate north);
- (v) the applicant had not complied with the approval conditions of four previous planning permissions, which were subsequently revoked. The four previous applications were all submitted by the current applicant and the site had been used for similar cargo handling and forwarding facilities since 2007. The applicant had not demonstrated genuine efforts in fulfilling the approval conditions imposed by the Board under the previous permissions. There were serious doubts that the concerns on drainage and landscape as well as fire risk of the development raised by the relevant departments could be addressed by way of approval conditions. Besides,

approval of the application with repeated non-compliance previously would set an undesirable precedent;

- (vi) two similar applications (No. A/YL-NTM/265 for container vehicles and goods vehicle repair yard and No. A/YL-NTM/289 for cargo handling and forwarding facility, warehouse, container vehicle park with ancillary office) along Ka Lung Road were rejected by RNTPC; and
- (vii) one public comment was received objecting to the proposed development mainly due to adverse environmental impacts, road safety on Ka Lung Road, and planning permissions for the site had been revoked several times due to non-compliance with approval conditions.

[Ms Julia M.K. Lau and Dr Wilton W.T. Fok arrived to join the meeting at this point.]

11. The Chairman then invited the applicant's representative to elaborate on the application.

12. Mr Yiu Tak Ming made the following main points:

- (a) the applicant had complied with the relevant approval conditions in the previous applications except the provision of FSI due to the problem of water supply. The provision of water supply for FSI relied on the works to be undertaken by the Water Supplies Department (WSD). However, unlike that for domestic use, the provision of water supply to the site for FSI was considered by WSD as neither necessary nor of an urgent need;
- (b) the proposed use had not created any adverse impact on the nearby residents since its operation. No complaint was received; and
- (c) he noted and agreed to PlanD's suggestion in paragraph 8.2 of the Paper that the application could be approved for a shorter period of one year so as

to allow time for the applicant to relocate his business to other suitable location.

13. As the presentations from the representatives of PlanD and the applicant had been completed, the Chairman invited questions from Members.

Approval Condition on Operation Hours

14. In response to the Chairman's question on the non-compliance with the approval condition on operation hours under the previous application, Mr Yiu Tak Ming said that the non-compliance was due to the applicant's neighbour using the site for loading/unloading outside the permitted operation hours. Ms Maggie Chin, DPO/FS&YLE, said that according to her observation during a recent site visit, the site was surrounded by a ditch and she doubted if the vehicles of the applicant's neighbour could cross the ditch and go through the site. Mr Yiu said that as the site of the applicant's neighbour was currently being used as an engineering workshop, the neighbour had borrowed part of the applicant's site for loading/unloading of small equipment.

Traffic Concern

15. Noting that the section of Ka Lung Road leading from San Tin Highway to the site was rather long, the Vice-chairman asked how the applicant could ensure that all drivers of his company could reduce the driving speed to below 30km/hour when using Ka Lung Road as proposed by the applicant. Mr Yiu said that all his company cars had Global Positioning System (GPS) devices and the applicant could provide the records of the movements of cars to the Board regularly, if necessary.

Shorter Approval Period

16. In response to a Member's question, Mr Yiu pointed out that as suggested by PlanD's in paragraph 8.2 of the Paper, the Board could consider granting a shorter period of one year, instead of 3 years, so as to allow time for the applicant to relocate his business to other suitable location with less traffic and environmental impacts.

Approval Condition on FSI Provision

17. In response to a Member's question on the applicant's record of compliance with approval conditions, Ms Maggie Chin said that for the first two planning applications No. A/YL-NTM/217 and 237, the planning permissions were revoked due to non-compliance with the approval conditions, including the submission of tree monitoring report/landscape and tree preservation proposal, drainage proposal, submission and provision of FSI proposal and the provision of paving and fencing. For the third planning application No. A/YL-NTM/241, the applicant had complied with the approval conditions on the submission/ implementation of landscaping and tree preservation and drainage proposals as well as the submission of FSI proposal. However, the provision of FSI was not complied with within the specified time limit and the planning permission was subsequently revoked. For the fourth application No. A/YL-NTM/241, the applicant had complied with the approval condition on the submission of drainage proposal while the other conditions were not yet complied with. The permission was subsequently revoked due to non-compliance with the approval condition on no night-time operation after 6:00 p.m. In other words, the applicant had never complied with the approval condition on the provision of FSI since the first approval in 2007. As regards the applicant's claim that the non-compliance with such approval condition was due to the works required to be undertaken by WSD for the provision of water supply for FSI, Ms Chin said she had no information from either FSD or WSD on this point.

18. A Member noted that PlanD had issued a letter to the applicant on 5.5.2010 stating that he had complied with the approval condition on the submission of FSI proposal. This Member wondered whether the approval condition in relation to FSI proposal had already been complied with or there was a change in FSD's requirement. Mr Yiu Tak Ming said that the applicant had complied with the condition on submission of the FSI proposal but not on the provision of FSI which required installation of pumps for FSI and connection to the water supply. The applicant had appointed a qualified engineering company to undertake all the works relating to the approval conditions on drainage, landscape and FSI, and had already made orders for the pumps. Relevant approval conditions on drainage and landscape had been complied with to the satisfaction of concerned departments. However, for the FSI, there had been no positive feedback from WSD on when the water supply for FSI could be connected to the site since his application

to WSD in 2009.

19. The Chairman noted that the issue on water supply connection had not yet been resolved for four years and asked the applicant if the site was suitable for use from the point of view of the availability of water supply connection for the FSI. Mr Yiu said that according to the engineering company, the provision of FSI would require an independent water pipe to be provided by WSD to the site and had to be separated from the water pipe for domestic use. As long as this separate water pipe could be provided, the site was suitable for the applied use.

20. Ms Maggie Chin said that the FSI proposal was submitted by the applicant in 2009 under application No. A/YL-NTM/241 but the provision of FSI was not complied with within the specified time limit. As regards the applicant's difficulty in connecting the water supply for FSI, FSD had not mentioned about that and no other applicants had encountered similar difficulty. The applicant had also not indicated such problem to PlanD before.

21. In view of the repeated non-compliance with approval conditions by the applicant under the previous planning permissions, a Member asked whether the applicant should be asked to fulfil the relevant conditions before making another application to show his sincerity. Ms Maggie Chin said the site was currently being used for the applied uses without valid planning permission. To avoid any adverse impact on the surrounding environment and safety risk, the applicant should have implemented the requirements under the previous approval conditions.

22. Referring to the FSD's guidelines on FSI in 2005, a Member asked whether the applicant would consider providing a water tank within the site to solve the water supply problem. It might not be justified for WSD to provide a separate water pipe to the site located in a remote area. Mr Yiu replied that a water tank had already been included in the FSI proposal submitted but water supply to such water tank by WSD would still be required.

23. Noting that the issue on water supply had not been resolved in the past four years, the Chairman asked how the applicant could assure the Board that the approval

condition on the provision of FSI could be complied with within a short period of time if permission was granted by the Board for the subject application. Mr Yiu said that according to FSD, the fire services regulations had changed in 2007. The requirement for a water tank and pump for FSI could be replaced by the use of fire extinguishers or other measures in form of liquid or powders.

24. As the applicant's representative had no further comment to make and Members had no further question, the Chairman informed him that the hearing procedure for the review had been completed and the Board would further deliberate on the application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representative and DPO/FS&YLE for attending the meeting. They all left the meeting at this point.

Deliberation Session

25. Members noted that there had been no major change in the planning circumstances since the previous consideration of the subject application by RNTPC and the applicant had not provided sufficient justification and evidence to demonstrate that he could comply with the approval conditions if permission was granted for the review application. Members agreed to maintain the RNTPC's decision to reject the application.

26. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the temporary cargo handling, forwarding facilities and container vehicle park is not in line with the Town Planning Board Guidelines No. 13E for Application for Temporary Open Storage and Port Back-up Uses in that there are adverse departmental comments from environmental and traffic aspects and also objection from local resident;
- (b) the applicant fails to demonstrate that the development would not have adverse impacts on the environment and traffic safety on the surrounding areas; and

(c) four previous planning permissions granted to the applicant under applications No. A/YL-NTM/217, 237, 241 and 272 are revoked due to non-compliance with approval conditions. Approval of the application with repeated non-compliance would set an undesirable precedent for other similar planning applications for temporary uses which are also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control.”

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-SK/197

Renewal of Planning Approval for Temporary “Camping Ground for Meditation Use” for a Period of 1 Year in “Conservation Area” Zone, Lots 1556 (Part) and 1558 in D.D. 114, Shek Kong, Yuen Long

(TPB Paper No. 9562)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

27. The Secretary said that the application was submitted by Awareness Spiritual Growth Centre Limited. The applicant’s representative, Ven. Sik Hin Hung, was the Director of the Centre of Buddhist Studies in the University of Hong Kong (HKU). The following Members had declared their interests in this item:

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|---------------------------|--|
| Mr Dominic K.K. Lam | - having business dealings with HKU |
| Professor Edwin H.W. Chan | - being the visiting lecturer and teaching and external examiner to HKU and HKU - SPACE |
| Dr Wilton W. T. Fok | - being the Senior Teaching Consultant (Industrial Training Manager) and Assistant Dean of the Engineering, Department of Electrical and Electronic Engineering, HKU |
| Mr H.F. Leung | - working in the Department of Real Estate & Construction in the Faculty of Architecture, HKU |
| Mr F.C. Chan | - being Hon. Professor in the Department of Electrical and Electronic Engineering, HKU |
| Professor S.C. Wong | - being the Chair Professor and Head of the Department of Civil Engineering, |

Professor of the HKU (Education) & Examiner, School of Professional and Continuing Education and the Director of the Institute of Transport Studies, HKU

Professor P.P. Ho - having connection with the applicant on some projects

28. As the above Members had no involvement in the application, Members agreed that they should be allowed to stay at the meeting. Members noted that Mr H.F. Leung and Mr Dominic K.K. Lam had tendered apologies for not being able to attend the meeting.

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

Ms Maggie Chin	-	District Planning Officer/Fanling, Sheung Shui and Yuen Long East (DPO/FS&YLE), PlanD
Ms Cannis Lee]	
Mr Chan Yuet Yi]	
Ven. Sik Hin Hung]	Applicant's representatives
Mr Kwok Wai Lun]	
Ms Michelle Chow]	

30. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/FS&YLE to brief Members on the review application.

31. With the aid of a Powerpoint presentation, Ms Maggie Chin made the following main points as detailed in the Paper:

- (a) the applicant sought renewal of planning approval for temporary camping ground for meditation use for a period of one year at a site zoned "Conservation Area" on the approved Shek Kong Outline Zoning Plan

(OZP);

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 22.11.2013 and the reasons were:
- (i) the proposed renewal did not meet the assessment criteria of the Town Planning Board Guidelines No. 34B on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No.34B) in that the approval conditions imposed under the previous approval were not complied with by the applicant;
 - (ii) the continuation of the development on site would generate adverse ecological and landscape impacts within the site; and
 - (iii) the approval of the renewal application would set an undesirable precedent for similar applications within the "CA" zone and the cumulative effect would result in a general degradation of the environment and landscape quality of the area;
- (c) the site was about 5,059m² in area and was used as a camping ground for meditation use. There were 14 fixtures with a total occupied area of about 217.6m² and height of about 0.37m to 2.5m placed/set up within the site, including 11 wooden boards that served as sitting places for the meditation participants and 3 concrete-based/wooden board fixtures with Buddha statue, a pagoda and a plaque on top;
- (d) the site was located at the mid-hill level of Lui Kung Tin and was accessible via a vehicular road next to the catchwater, a paved footpath and a natural trail leading from Route Twisk and Lui Kung Tin to its north;
- (e) the surrounding areas were predominantly rural in character with densely-vegetated woodlands. To its south uphill was Tai Lam Country

Park. About 20m from its western and northern boundaries ran a catchwater, by the side of which was a vehicular road and some public barbecue areas. About 15m to its east was a section of Kap Lung Ancient Trail which ran uphill from Lui Kung Tin;

- (f) the applicant had not submitted any written representation in support of the review application;
- (g) previous applications - the site was involved in 3 previous applications (Nos. A/YL-SK/161, 165 and 176) for the same use at the same site submitted by the same applicant approved by RNTPC on 26.11.2010, 18.11.2011 and 9.11.2012 respectively;
- (h) similar application – there was no similar application within the same “CA” zone on the OZP;
- (i) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) noticed in a site visit that some trees were topped for erecting tents and some trees had been felled within the site, and some burnt ashes and one bamboo shelter were found at the site. Tree topping and tree felling would inevitably affect the ecological features of this site which was well wooded, and thus should be avoided from the nature conservation viewpoint. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had some reservations on the application from the landscape planning point of view. Tree topping and tree felling were observed on site recently by AFCD and tents/rain shelters had been set up with strings tied to tree trunks. As such, further interference with the landscape character of the area and existing landscape resources due to the applied use was very likely. Other relevant Government departments had no adverse comments on the application;

- (j) public comments - during the statutory publication period at the s.17 review stage, seven public comments were received objecting to the application. The main reasons were that the use of coaches/buses to access the site would cause severe traffic congestion problem; the proposed development would generate an unpleasant psychological effect to the villagers and local people; public enjoyment of the natural environment had been exploited by the proposed development; the application was not in line with the planning intention of “CA” zone and would set an undesirable precedent; and the approval conditions of the previous application were not complied with. There were also concerns on the adverse environmental impacts, noise nuisance, pollution to Pat Heung catchwater and fire risks; lack of environmental restoration and protective measures and impact assessments; and that tree felling were found within the site and the natural habitats were not properly managed. At the s.16 application stage, three public comments had been received objecting to the application on the grounds related to traffic impacts/nuisance and the psychological and *fung shui* impacts on the local villagers and the area; and

- (k) PlanD’s views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 6 of the Paper and summarised below:
 - (i) the application was not in line with TPB PG-No. 34B in that the applicant failed to comply with the approval conditions (a) to (c) under the previous approval which restricted the placement/building of new fixture or structure, tree felling, and open burning within the site, though the non-compliance activities of placing new fixture/structure have been rectified;

 - (ii) despite the fact that the new fixtures/structures were subsequently removed, noticeable disturbances had been caused to the natural site condition as shown on Plans R-4a to R-4e of the Paper.;

- (iii) as shown on Plan R-4f of the Paper (photos T1 to T7), DAFC's previous site visit revealed that some tree topping and felling and burnt ashes were found within the site. DAFC considered that tree topping and tree felling would inevitably affect the ecological features of the site which was well-wooded and should be avoided from the nature conservation viewpoint;
- (iv) CTP/UD&L, PlanD also raised similar concerns and had reservation on the application as further interference with the landscape character of the area and existing landscape resources due to the applied use was envisaged; and
- (v) the approval of the application might set an undesirable precedent and encouraged such activities within the "CA" zone. The continual occupation of the site for the applied use would result in further deterioration of the landscape quality and natural character of the site.

[Ms Bernadette H.H. Linn arrived to join the meeting at this point.]

32. The Chairman then invited the applicant's representatives to elaborate on the application. Members noted that a letter of undertaking was tabled by the applicant's representative at the meeting in which the applicant declared that it would not conduct tree topping, tree felling and open burning within the site; no new fixtures or structures would be placed/built on the site; and it undertook to comply with all approval conditions imposed by the Board should the application be approved.

33. With the aid of a Powerpoint presentation, Ms Cannis Lee made the following main points:

- (a) the applicant, Awareness Spiritual Growth Centre Limited, was a charitable institution under section 88 of the Inland Revenue Ordinance. The site was originally owned by the father of Ven. Sik Hin Hung and

then by the applicant in 2003;

- (b) Ven. Sik Hin Hung was the Director of the Centre of Buddhist Studies in HKU. He had studied overseas and was specialised in Buddhism education and meditation. The applicant organised courses jointly with the Centre of Buddhist Studies with the aim to promoting Buddhism education;
- (c) the site involved two private lots surrounding by Government land. There were bus and minibus stops nearby. The participants of the events organised by the applicant would take public transport and then walk for about 15 minutes along paved access to the site. There was also a public toilet nearby in the Tai Lam Country Park;
- (d) less than 10 meditation events would be held at the site each year, normally during weekends. The meditation events included a number of workshops held at a centre in Yau Ma Tei and a two-day day camp at the site. The wooden boards at the site were provided for sitting and meditation practice of the participants;
- (e) the site was the subject of three previous approvals (No. A/YL-SK/161, 165 and 176) for the applied use since 2010 for a period of one year each time. In approving the first application No. A/YL-SK/161, the Board had taken into account the following planning considerations:
 - (i) the site was at an inconspicuous location being screened off from the surrounding areas by dense vegetation;
 - (ii) the development did not involve tangible buildings or site formation but only wooden platforms or concrete fixtures mostly placed on ground and did not contravene the planning intention of “CA” zone for protecting and retaining the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes;

- (iii) with the existing natural landscape resources within the site being conserved and the meditation events being held infrequently, the applied use was not incompatible with the rural and tranquil character of its surrounding woodland environment and would not generate significant environmental impact on the surrounding areas;
 - (iv) the site was not identified as a site of ecological importance;
 - (v) there was no felling of trees and the interference with the existing landscape character was minimal; and
 - (vi) the Government departments consulted had no objection to the application generally;
- (f) as to the current application, EPD commented that for a properly managed camping ground for meditation use, there was a limited potential for generating any adverse environmental impact. In this regard, the application could be tolerated. There were no objections/comments from other Government departments including the Transport Department, Water Supplies Department, Fire Services Department, Buildings Department, Highways Department, Drainage Services Department, Leisure and Cultural Services Department, Civil Engineering and Development Department and Hong Kong Police Force;
- (g) DAFC commented that he had no strong view from the nature conservation perspective for the approval to be renewed and the conditions under the previous approval (No. A/YL-SK/176) be retained. Should the application be approved, the applicant should be reminded that tree felling (including topping) and open burning should not be allowed at all times within the site;
- (h) CTP/UD&L, PlanD commented that should the application be approved, an approval condition requiring the submission and implementation of tree

preservation proposal was recommended;

- (i) the applicant had submitted a letter of undertaking in support of the review application and declared that it would not conduct tree topping, tree felling and open burning within the site. No new fixtures or structures would be placed/built on the site. The applicant also undertook to comply with all the approval conditions imposed by the Board should the current planning application be approved;
- (j) by comparing some site photos taken in September 2010 (for the first application) and March 2014 (for the current application) respectively, the site conditions were similar in 2010 and 2014 in that there was dense vegetation and the applicant had reinstated the site by removing the additional structures. The applicant also had to tidy up the site regularly to avoid mosquitoes and weeds. Regarding departments' concern on tree cutting, as shown in the photos taken in 2010, natural tree felling due to heavy rain and typhoons were quite common. Sometimes, the applicant had to remove diseased branches and trees so as to ensure the safety of the participants; and
- (k) should the application be approved, the applicant would reinforce the management of the site. The applicant hoped that the Board could favourably consider the application.

34. Ven. Sik Hin Hung made the following main points:

- (a) he noted that some departments did not support the renewal of the application due to the placement of a bamboo shelter at the site. The bamboo shelter was to provide a cover for the Buddha statue in case of heavy rain and there was no concrete structure. Noting that the bamboo shelter was not allowed, he had already removed it;
- (b) the applicant had chosen the site for meditation use because of the natural environment there. Preservation of trees and protection of the natural

environment were always considered important by the applicant. Some trees had fallen down naturally due to heavy rain and typhoons and some suffered from diseases. The applicant had to remove them to ensure safety of the participants. As shown in the site photos of 2014, there were still a lot of trees at the site; and

- (c) given that only a few meditation events would be held at the site each year, the applicant hoped that the Board would grant approval for the renewal of the application.

35. As the presentations from the representatives of PlanD and the applicant had been completed, the Chairman invited questions from Members.

Tree Cutting and Open Burning

36. The Chairman and Members had the following questions for the applicant:

- (a) whether the applicant had any proposal for maintaining the trees on site to ensure that the trees would not fall down so easily and that there would be an increase in the number of trees;
- (b) under what circumstances did the applicant undertake open burning at the site which was not in compliance with the approval condition; and
- (c) whether the applicant could confirm that the topping and felling of trees as shown on the photos T1-T7 in the Powerpoint presentation by PlanD was solely arising from the need to remove diseased trees or fallen trees due to heavy rain/typhoons, but not to facilitate the applicant's operation at the site.

37. On question (a), Ven. Sik Hin Hung said that he would ensure that no tree topping and felling would be undertaken within the site in future so as to preserve the natural environment. As the trees were part of the natural environment, they would grow naturally without disturbance. If necessary, weeds would be removed to promote the

growth of trees.

38. On question (b), Mr Kwok Wai Lun said that he was a Buddhist who had participated in the events at the site. Open burning was sometimes undertaken at the site to burn weeds and for boiling of water in winter. He was not aware of the restrictions on open burning under the approval condition before. With the clarification from the Board, he would ensure that no open burning would be undertaken on site in future. The Chairman pointed out that the restriction on open burning was proposed by the applicant under the previous application and such approval condition was clearly stated in the approval letter to the applicant. Hence, there was no reason why clarification from the Board was needed. Ven. Sik Hin Hung said that he was aware of the approval condition but there was a miscommunication between him and other participants using the site. He would ensure that all the restrictions would be posted on site in future so that the participants would be well informed of all the restrictions.

39. On question (c), Mr Kwok Wai Lun confirmed that all the trees removed on the site were dead trees or fallen trees due to heavy rain and strong wind/typhoons. No healthy trees had been cut by the applicant. The Chairman however pointed out that as shown on photos T4-T6, the setting up of shelters and sheds at the site had affected the natural growth of the trees.

40. A Member said that the site was located within a densely vegetated area, not an open area and hence doubted the applicant's claim that the trees were susceptible to strong winds. This Member also noted that the topping of trees as shown on photos T1-T4 concerned healthy trees, and the sheds on photos T4-T6 had adversely affected the adjacent trees with narrow branches. This Member doubted if the applicant could guarantee that the trees within the site would be protected if approval was granted for the renewal application.

41. Mr Kwok Wai Lun agreed that the sheds and the cutting of branches would affect the natural growth of the trees and would ensure that more space would be given for the trees to grow in future. Ven. Sik Hin Hung said that the tree with white spots on photo T3 suffered from disease and the tree on photos T2 and T7 were topped to remove fallen and broken branches. He said that while large trees would be protected, they would

remove small trees, small branches and rattan so as to allow space for the camping ground and to promote healthy growth of the existing trees. He said that as compared with the site condition in 2010, the current vegetation within the site was denser than before. He reiterated that the site was chosen for meditation use because of its natural environment. They would not destroy the trees and the natural environment intentionally.

42. The Chairman said that the site was zoned “CA” and the planning intention was to protect and retain the existing natural landscape. That was the reason why no trees on the site were allowed to be felled or topped under the approval condition. Ven. Sik Hin Hung said that he would ensure that no tree felling would be undertaken in future if it was not allowed under the approval condition.

43. A Member had the following questions for PlanD:

- (a) When and how did the concerned Government departments find out that there was tree topping and felling within the site? Was it due to site inspection when processing the renewal application or arising from complaints?
- (b) How long had the site been used for the applied use and what was the impact of tree topping and felling within the site on the natural environment?
- (c) How could the Government monitor and enforce compliance with approval conditions by the applicant?

44. On questions (a) and (b), Ms Maggie Chin said that tree topping and felling at the site was observed by the concerned Government departments including PlanD and DAFC during site inspection when processing the current renewal application. For the impact on the natural environment, she said that there used to be dense vegetation at the site before as shown by photos taken in 2010 for the first application. Since the first approval in 2010, the site had been used for meditation use and about 10 meditation events were held each year. For each event, about 40 to 50 participants visited the site for one to two days. As the applicant had to clear the grass, the natural environment was somehow

affected.

45. Another Member said that the site was located within a “CA” zone which was an ecologically sensitive area. The applied use would affect the ecological habitats of the natural environment. The burning of grass at the site would kill some species and the large number of participants who stepped on the soil would also affect the soil quality. Ven. Sik Hin Hung agreed that participants would step on the soil when visiting the site but wooden boards would be provided for sitting and meditation. He said that vegetation and trees within the site would be allowed to grow naturally without disturbance. In response to the Chairman’s query, Ven. Sik clarified that the applicant would allow trees to be grown naturally and would only remove the fast-growing grass and weeds when necessary.

46. On question (c), Ms Maggie Chin said that if the applicant did not comply with the approval conditions, the planning permission would be revoked. If the site was not covered by a valid planning permission, the Planning Authority could undertake planning enforcement action against any unauthorised development detected on the site under the Town Planning Ordinance.

Fire Safety

47. Referring to the comments of the Director of Fire Services (D of FS) included in the Paper, a Member asked whether the applicant would provide the FSI or apply for exemption from the provision of FSI.

48. Ms Cannis Lee said that while the approval condition on the submission and implementation of FSI was imposed on the first and second planning permissions, the applicant had subsequently written to D of FS to justify that there was no need for FSI at the site and D of FS had agreed to grant the exemption. Such condition was not imposed on the third planning permission.

Public Transport

49. Noting that there were public comments objecting to the review application for the reason that the use of coaches/buses for accessing the site would cause severe traffic congestion problem, a Member asked the applicant to clarify the means of transport to the site by the participants.

50. Ms Cannis Lee said that the participants would take public transport such as buses and minibuses and then walk to the site. There would be no coaches entering into the site. Ven. Sik Hin Hung supplemented that the access to the site was too narrow for coaches.

Meditation Events

51. Members had the following questions:

- (a) If only less than 10 meditation events were held each year, why was there a need for storing so many bottles of drinking water at the site as shown on photo T5?
- (b) Were the sheds for the meditation events as shown on photos T4-T6 built by professionals?
- (c) Did the meditation events have any connection with HKU and were they for education purpose? Did the participants pay for the events?
- (d) Would the applicant consider using other facilities owned by HKU for holding the meditation events, e.g. the Kadoorie Centre of HKU?
- (e) Who was the organiser for the meditation events and was any outside contractor employed to organise the events?

52. On questions (a) to (d), Ven. Sik Hin Hung said that the drinking water was for the consumption of the participants and teachers from Thailand during a meditation event. The sheds were built by the teachers and Buddhists from Thailand who had experience in building sheds in woodlands. He said that the meditation events were held for educational purpose for the university students as he was teaching in HKU as well as for members of the general public when the events were held by the applicant. No fee was charged for the meditation events held at the site but the participants had to pay for their accommodation cost at the monastery. Meditation camps were also held at the Kadoorie Centre before but they were of a different nature from the meditation events held at the site which was located at a natural environment.

53. As regards question (e), Ven. Sik Hin Hung said that the site was jointly used by the applicant and the Hong Kong Theravada Meditation Society for organising events. The maintenance and clearance of the site was normally undertaken by the Society. The non-compliance with approval conditions was mainly due to a miscommunication between himself and the Society and a lack of experience. He would communicate with the Society to ensure that no tree topping and felling and open burning would be undertaken at the site in future.

Requirement for Planning Application

54. Members had the following questions:

- (a) whether planning application would be required if the applicant modified the scale of operation at the site, e.g. by removing the physical structures such as wooden boards, sheds and tents; and
- (b) whether the applicant would consider modifying the scale of operation, e.g. by using mats only or temporary wooden boards for sitting and meditation.

55. On question (a), Ms Cannis Lee said that the applicant had consulted PlanD in 2010 and was advised that planning application would be required for the applied use. LandsD also advised that the fixtures of wooden boards and Buddha statue at the site

would require application for a short term waiver. Ven. Sik Hin Hung said that wooden boards were necessary for sitting and meditation as the ground was wet and uneven.

56. By presenting the Notes of the “CA” zone on the visualiser, Ms Maggie Chin said that PlanD would consider whether the use would constitute a permitted use under Column 1 in deciding whether an application was not required. In response to a Member’s query on the nature of ‘On-Farm Domestic Structure’ under Column 1 of the “CA” zone, Ms Chin explained that the ‘On-Farm Domestic Structure’ meant a residential structure of about 400 sq. ft on agricultural land for habitation of the farmer, who worked on the farm and for storing of farming equipment, since ‘Agricultural’ Use was always permitted in the “CA” zone.

57. On question (b), Ven. Sik Hin Hung said that most of the participants were members of the general public and students who needed to work and study at daytime and joined the events during leisure time. There would also be some workshops for school students for educational purpose. It would be more appropriate to provide them with wooden boards for sitting and meditation, and using temporary wooden boards was not practical.

58. As the applicant’s representatives had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedure for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board’s decision in due course. The Chairman thanked the applicant’s representatives and DPO/FS&YLE for attending the meeting. They all left the meeting at this point.

Deliberation Session

59. Members noted that the site was located at a “CA” zone and the planning intention was to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment from the adverse effects of development. There was general presumption against development. Members also noted that it was the first time that the applicant did not comply with the approval conditions since the first approval

in 2010.

60. Eight Members were sympathetic with the renewal application and had the following views:

- (a) the applicant and the operator of the site were not fully aware of the planning intention of the “CA” zone for protection and conservation of the natural environment and the importance for them to comply with the approval conditions before. If approval was granted to the application, there was mechanism to ensure that the operator and participants of the site would be fully aware of and would strictly comply with the approval conditions. More guidance could be given to the applicant on how to comply with the approval conditions;
- (b) compared with other planning applications in the “CA” zone, e.g. camping site and war games, there was less adverse impact generated by the applied use on the natural environment. The applicant was using rough and ready materials for the operation of the site and hence the interference with environment was minimal;
- (c) the placement of wooden boards only occupied about less than 10% of the site. The fixtures of wooden boards were in fact permitted under the previous planning approval;
- (d) the applied use could provide a good opportunity for the general public to get closer to and enjoy the natural environment;
- (e) the site was under private land ownership and the activities were only carried out in an open area;
- (f) as it was the first time that the applicant did not comply with the approval conditions since its first approval in 2010, one more chance could be given to the applicant. The Board could monitor the situation by granting a shorter approval period of one year. If there was repeated

non-compliance, the planning permission could be revoked immediately;

- (g) to understand the tree conditions within the site, a more scientific survey should be undertaken, instead of just relying on the observation on photos. The applicant should be requested to submit a tree condition survey report; and
- (h) the applicant should be requested to submit a tree preservation proposal and employ a qualified professional to handle the diseased and fallen trees.

61. Four Members had reservation on the renewal application and had the following views:

- (a) there were doubts on whether tree topping and felling by the applicant was only for diseased trees or fallen trees due to heavy rain and typhoons. If approval was granted, more people would use the site and affect the natural habitats. It would lead to habitat fragmentation and was against the planning intention of the “CA” zone for nature conservation;
- (b) there was concern on the proper management of the site for the applied use. The applicant did not fully understand the planning intention of the “CA” zone and the importance for compliance with the approval conditions. There was also miscommunication between the applicant, the operator and the participants on how to use and manage the site properly;
- (c) as noted from the site photos, healthy trees were topped and felled to facilitate the operation of the site. Clearance of grass also led to water and soil loss. The applicant did not employ any professional to manage the site. There was no confidence that the natural environment would be preserved;
- (d) there was doubt on whether less than ten meditation events were undertaken at the site each year, noting that a large extent of grass within the site had been cleared, there were sheds and a large amount of drinking

water stored at the site;

- (e) the site was zoned “CA” for conservation of the natural environment. However, the intention of the applicant to protect the natural environment was very weak. If approval was granted for the renewal application, there would be adverse impact on the natural environment; and
- (f) Government departments should inspect the site more frequently to ensure that the applicant complied with the approval conditions.

62. The meeting noted that majority of the Members agreed to grant approval to the renewal application for a period of one year. Members also agreed that strict approval conditions had to be imposed to ensure that the applicant would not adversely affect the natural environment. If there was any non-compliance of the approval conditions, the planning permission should be revoked immediately and no favourable consideration would be given for further renewal application.

63. After deliberation, the Board decided to approve the application on review and the permission should be valid until 28.3.2015 and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was granted. The permission was subject to the following conditions:

- “(a) no new fixture or structure is allowed to be placed/built on the application site at any time during the planning approval period;
- (b) no trees within the application site are allowed to be felled or topped at any time during the planning approval period;
- (c) no open burning, as proposed by the applicant, is allowed on the application site at any time during the planning approval period;
- (d) no chemicals, including fertilizers/pesticides, are allowed to be used or stored on the application site at any time during the planning approval

period;

- (e) no public announcement system, portable loudspeaker or any form of audio amplification system, as proposed by the applicant, is allowed to be used on the application site at any time during the planning approval period;
- (f) the submission and implementation of tree preservation proposal including a tree condition survey report within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 28.9.2014;
- (g) the submission and implementation of fire service installations 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 Town Planning Board by 28.9.2014;
- (h) if any of the above planning conditions (a), (b), (c), (d) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (i) if any of the above planning conditions (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall 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 Town Planning Board.

64. The Board also agreed to advise the applicant on the following:

- “(a) note the District Lands Officer, Yuen Long, Lands Department’s comments that the private lots within the application site are Old Schedule Agricultural Lots held under Block Government Lease under which no structures are allowed to be erected without prior approval from his office. No approval has been given to the proposed specified structures as wooden/concrete fixtures and platforms. Application for Short Term Waiver (STW) for “Mediation” Use on Lots 1556 (Part) and 1558 in D.D. 114 was submitted to his department. Such application will be considered by LandsD acting in the capacity as landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD. Besides, the application site is accessible to Route Twisk via Government land. LandsD does not provide maintenance works for this access nor guarantees right-of-way;
- (b) adopt 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 any potential environmental nuisances;
- (c) note the Chief Town Planner/Urban Design and Landscape, Planning Department’s comments that the applicant should avoid any damages to existing trees and the temporary tents/rain shelters tied to trees should be removed due to safety reasons. The locations of the existing tents/rain shelters shall be demarcated on plan and photo record should be submitted after their removal;
- (d) note the Chief Engineer/Development(2), Water Supplies Department’s comments that the nearby catchwater access road should not be used as vehicular access to the application site. The “Conditions of Working within Water Gathering Ground” in Annex E of the TPB paper should be complied with in the course of erection of

structures within the application site. Besides, water mains in the vicinity of the application site cannot provide the standard pedestal hydrant;

- (e) note the Director of Fire Services' comments that in consideration of the design/nature of the proposal, fire service installations (FSI) are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSI to his Department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSI to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of FSI as prescribed by his Department, the applicant is required to provide justifications to his Department for consideration. However, if the proposed structure(s) is/are required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;

- (f) note the Chief Building Surveyor/New Territories West, Buildings Department's comments that if it is proposed to erect any temporary structures not exempted under the provisions of the Buildings Ordinance, formal building plans are to be submitted for his approval; and

- (g) note the Director of Electrical and Mechanical Services' comments that the applicant shall approach the electricity supplier for the requisition of cable plans to find out whether there is any underground cable (and/or overhead line) within or in the vicinity of the application site. Prior to establishing any structure within the application site, the applicant and/or his contractors shall 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 shall be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.”

[The meeting was adjourned for a 10-minute break.]

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-KTS/348

Proposed House (New Territories Exempted House – Small House) in “Agriculture” zone,
Lot 655 S.D. in D.D. 100, Tsiu Keng Village, Sheung Shui
(TPB Paper No. 9542)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

65. The following representative of Planning Department (PlanD) and the applicant’s representatives were invited to the meeting at this point:

Ms Maggie Chin - District Planning Officer/Fanling, Sheung Shui and Yuen Long East (DPO/FS&YLE), PlanD

Mr Lo Chung Yiu, John] Applicant’s representatives

Mr Hau Chi Keung]

66. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/FS&YLE to brief Members on the review application.

67. With the aid of a Powerpoint presentation, Ms Maggie Chin made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to build a proposed house (New Territories Exempted House (NTEH) - Small House) at a site zoned “Agriculture” (“AGR”) on the draft Kwu Tung South Outline Zoning Plan (OZP);

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 27.9.2013 and the reasons were:
- (i) the proposed development was not in line with the planning intention of the “AGR” zone in the Kwu Tung South area which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention; and
 - (ii) land was still available within the “Village Type Development” (“V”) zone of Tsiu Keng Village where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services;
- (c) the site (about 177.8m²) was within the village ‘environs’ (‘VE’) of Tsiu Keng Village and located to the further north of Tsiu Keng Lo Wai village cluster. It was a piece of fallow agricultural land covered by wild grass and adjoining a local footpath. There was no direct vehicular access;
- (d) the site was part and parcel of a large piece of agricultural land zoned “AGR” located to the north and north-west of Tsiu Keng Village, comprising Tsiu Keng Pang Uk, Tsiu Keng San Wai and Tsiu Keng Lo Wai. To the immediate west and north was active or fallow agricultural land. To the immediate south was a piece of land with vegetation cleared. To the east were fallow agricultural land with some trees and a channelized stream known as Tam Shui Hang. To the further south-west were domestic and vacant structures within the “V” zone of Tsiu Keng Lo Wai, and newly built Small Houses approved under Application No. A/NE-KTS/99; and

- (e) the justifications put forth by the applicant in support of the review application were summarised as follows:
 - (i) the site was located within the 'VE' of Tsiu Keng Village;
 - (ii) the site had been left vacant for many years and there was no farming activity at the site;
 - (iii) a landscape proposal and a drainage proposal were submitted in support of the review application;
 - (iv) the applicant was an indigenous inhabitant in the New Territories and he had only one chance to apply for construction of a NTEH (Small House);
 - (v) the Chairman of the Sheung Shui District Rural Committee (SSDRC) and the Indigenous Inhabitant Representative (IIR) of Tsiu Keng Village supported the application on the grounds that the population in Tsiu Keng Village and in the Sheung Shui district was increasing and there was insufficient land in Tsiu Keng Village to meet the demand for construction of houses by indigenous inhabitants; and
 - (vi) the site was currently vacant and Small Houses had been built in the surrounding areas.
- (f) previous application – there was no previous application covering the site;
- (g) similar applications –
 - (i) the only approved application (No. A/NE-KTS/99) for proposed five NTEHs (Small Houses) to the north of Tsiu Keng Village was considered by RNTPC before the promulgation of the Interim Criteria for Consideration of Application for NTEH/Small House in

New Territories (the Interim Criteria) on 24.11.2000. The application site was partly within the “V” zone of Tsiu Keng Village (about 11.8%). The application was approved on the grounds that the land available within the “V” zone of Tsiu Keng Village could not fully meet the future Small House demand and that the proposed Small Houses were considered compatible with the surrounding rural and village environment and were not expected to have adverse environmental impacts on the surrounding areas;

- (ii) there were another 19 applications (Nos. A/NE- KTS/132, 133, 162, 172 to 176, 182, 183, 275 to 277, 283, 292 to 295 and 349), approved with conditions by RNTPC between 2001 and 2013, involving 13 application sites that were either partly within the “V” zone of Tsiu Keng Village or were located close to Tsiu Keng Road adjoining the “V” zone and serving as direct vehicular access of the village; and
- (iii) there were eight similar applications (Nos. A/NE-KTS/332 to 337, 350 and 351), of which the application sites fell wholly within the “AGR” zone and formed part and parcel of the large piece of active or fallow agricultural land to the north and north-west of Tsiu Keng Village, similar to the current site. They were rejected by RNTPC or by the Board on review on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone in the Kwu Tung South area and it was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services;
- (h) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site possessed high potential for agricultural rehabilitation. The site was part of a large agricultural land located to the north and north-west of Tsiu Keng Village,

of which the agricultural land in the area was generally under active cultivation. Approval of the subject Small House application might set an undesirable precedent for similar applications in future and would further reduce the agricultural land in the area. The Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) had reservation from the landscape planning point of view. The site was situated in an area of rural landscape character. Approval of the proposed Small House application might set an undesirable precedent of spreading village development outside the “V” zone and would thus erode the rural landscape character. The Commissioner for Transport (C for T) had reservation on the application. Such type of development should be confined within the “V” zone as far as possible. It would set an undesirable precedent for similar applications outside the “V” zone and the resulting cumulative adverse traffic impact could be substantial. The District Lands Officer/North, Lands Department (DLO/N, LandsD) commented that the site fell within the ‘VE’ of Tsiu Keng Village. The number of outstanding Small House applications and the number of 10-year Small House demand forecast for Tsiu Keng Village were 58 and 400 respectively. The District Officer (North), Home Affairs Department (DO(N), HAD) advised that the Chairman of SSDRC and IIR of Tsiu Keng had no comment on the application. The Incumbent North District Council (NDC) member and the Resident Representative (RR) of Tsiu Keng raised objection to the application. Other concerned departments had no adverse comment;

- (i) public comments - during the statutory publication period at s.17 review stage, a total of nine comments were received. Two supportive comments were received from a NDC member as the proposed development would bring convenience to the concerned villagers. Seven comments were received from another NDC member, Designing Hong Kong Limited, Kadoorie Farm & Botanical Garden, Federation of Vegetable Marketing Co-operative Societies Limited and Tsiu Keng Vegetable Marketing and Credit Co-operative Society Limited. The main objection grounds were the proposed development was not in line

with the planning intention of “AGR” zone; the site and its surroundings had high potential for rehabilitation of farmland; the proposed development would destroy the active agricultural land in the vicinity of the site; there was no submission of environmental, traffic, drainage and sewerage assessments; failure to provide public sewerage would result in cumulative impact of seepage from tanks on ground water and nearby water bodies; land was still available within the “V” zone of Tsiu Keng Village and the proposed development should be constructed within the “V” zone; and

- (j) PlanD’s views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of the Paper and summarised below:
 - (i) the proposed development was not in line with the planning intention of the “AGR” zone. The site was a piece of fallow farmland which possessed high potential for agricultural rehabilitation and it could be used for crop cultivation;
 - (ii) the site was part of a large piece of agricultural land located to the north and north-west of Tsiu Keng Village. The agricultural land in the area was generally under active cultivation. Approval of the application might set an undesirable precedent for similar applications in future and would further reduce the agricultural land in the area;
 - (iii) based on DLO/N, LandsD’s latest records, the total number of outstanding Small House applications for Tsiu Keng Village was 58 while the 10-year Small House demand forecast for the same village was 400. While there was insufficient land in the “V” zone in Tsiu Keng Village to meet both outstanding and 10-year demand of Small Houses (i.e. about 11.45 ha of land which was equivalent to about 458 Small House sites), land was still available within the “V” zone of Tsiu Keng Village for Small House

development (about 3.14 ha of land equivalent to about 125 Small House sites). It was considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructure and services;

- (iv) approval of the application might set an undesirable precedent of spreading village development outside the “V” zone and would thus erode the rural landscape character and cause substantial cumulative adverse traffic impact; and
- (v) the situation of the current application was not comparable to other similar approved applications as most of the similar applications were located close to Tsiu Keng Road serving as direct vehicular access to the village or the application sites fell partly within “V” zone.

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

68. The Chairman then invited the applicant’s representatives to elaborate on the application.

69. Mr Hau Chi Keung made the following main points:

- (a) PlanD considered that it was more appropriate to concentrate Small House development along Tsiu Keng Road for orderly development. However, this planning intention was difficult to achieve as land in the New Territories were under different land ownership. For the land along Tsiu Keng Road, it was private land and one could not expect different land owners to make applications for orderly Small House developments along the road. This could only be achieved if the land was Government land;
- (b) all land in the New Territories was agricultural land. If PlanD considered that sites having potential for agricultural rehabilitation had to be used for

agricultural purposes, villagers would not be able to build Small Houses even within “V” zones and ‘VE’. This was in conflict with the Small House policy under which villagers had the right to build Small Houses within ‘VE’;

- (c) while land outside ‘VE’ could be retained for agricultural use, villagers should be allowed to make applications for Small House developments on land within ‘VE’. The Government and PlanD had the responsibility to assist the villagers in building Small Houses within ‘VE’ ;
- (d) as regards the environmental impact, the applicants had already undertaken to provide more greening and plant more trees within the site;
- (e) if the Board rejected the application based on PlanD’s reasons, SSDRC and Heung Yee Kuk would raise objection; and
- (f) the current application for Small House development was made in accordance with the law, and the site was located within ‘VE’, not outside ‘VE’. The Board should consider it in accordance with the law and should not take into account irrelevant public objections such as those from a NDC member and other commenters who were not familiar with the village. Their objections might be due to personal reasons.

70. Mr Lo Chung Yiu, John made the following main points:

- (a) according to PlanD, the total number of outstanding Small House applications for Tsiu Keng Village was 58 while the 10-year Small House demand forecast for the same village was 400. Since the amount of land available within the “V” zone was equivalent to only about 125 Small House sites, there was insufficient land in the “V” zone in Tsiu Keng Village to meet the outstanding and the 10-year demand. There was no reason why the Board should reject the application for Small House development within ‘VE’;

- (b) no pollution problem would be generated by the proposed Small House development as the Drainage Services Department had undertaken many projects in Tsiu Keng Village to improve the drainage and sewerage of the area;
- (c) the site was located near Tsiu Keng Road and was accessible via a local access. There would be no access problem; and
- (d) the applicant had submitted a landscape proposal and a drainage proposal in support of the review application and was willing to implement the proposals to the satisfaction of the concerned Government departments and the Board.

71. As the presentations from the representatives of PlanD and the applicant had been completed, the Chairman invited questions from Members.

72. The Chairman asked PlanD about the land ownership pattern and the amount of Tso Tong land within the “V” zone of Tsiu Keng Village, noting that it might be difficult to acquire Tso Tong land for Small House developments. Ms Maggie Chin, DPO/FS&YLE said that she had no readily available information on the land ownership pattern within the “V” zone of Tsiu Keng Village. However, she said that there were currently about 4.67 ha of land zoned “V” in Tsiu Keng Village. Discounting the roads and developed area, there were still about 3.14 ha of land available within the “V” zone for Small House developments (equivalent to about 125 Small House sites). Hence, it was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services.

73. Mr Hau Chi Keung said that although PlanD claimed that there was still land available within the “V” for the development of 125 Small Houses, about 80% of such land had been acquired by large development companies while about 10 to 20% were Tso Tong land. Hence, it was not possible for villagers to build Small Houses on such land. For road access, if the application was granted, the applicant would liaise with the adjacent

land owners to ensure that there would be access to the site. Besides, he reiterated that as the land was under different ownership, it would not be possible for the Government to achieve the planning intention of orderly development pattern.

74. As the applicant's representatives had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedure for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and DPO/FS&YLE for attending the meeting. They all left the meeting at this point.

Deliberation Session

75. Members noted that the proposed Small House development was not in line with the Interim Criteria in that it would frustrate the planning intention of the "AGR" zone. According to the applicant's representatives, the amount of Tso Tong land which might be difficult to be acquired for Small House development was only 10 to 20%. There was still land available within the "V" zone of Tsiu Keng Village for Small House development. Members also noted that road access was not a reason of rejection by RNTPC at the s.16 application stage. Given that there was no major change in the planning circumstances since the previous consideration of the subject application by RNTPC, Members agreed to maintain the RNTPC's decision to reject the application.

76. In response to the question raised by Ms Bernadette H.H. Linn, Director of Lands on the application of the Interim Criteria when considering the shortage of land in meeting the Small House demand, the Secretary said that in general, sympathetic consideration would be given to an application if there was a general shortage of land in meeting the demand for Small House development in the "V" zone of a village. For Tsiu Keng Village, there were quite a number of approved applications involving application sites that were either partly within the "V" zone or located close to Tsiu Keng Road which served as a direct vehicular access to the village. However, for the subject application, although there was insufficient land within the "V" zone of the same village to meet the outstanding applications and 10-year Small House demand, the site was located in a green area outside the "V" zone and formed part of a large piece of agricultural land fallow or

under active cultivation to the north and north-west of Tsiu Keng Village. As land was still available within the “V” zone for Small House development, PlanD considered it more appropriate to concentrate the proposed Small House close to the existing village cluster within the “V” zone for orderly development pattern.

77. The Chairman said that the Small House demand forecast was only one of the factors to be taken into account by the Board in considering a planning application for Small House development. Members would also take into consideration the planning intention, the location and setting of the application site as well as the compatibility of the proposed development with the surrounding area.

78. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

“(a) the proposed development is not in line with the planning intention of the “Agriculture” zone in the Kwu Tung South area which is 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 is no strong planning justification in the submission for a departure from the planning intention; and

(b) land is still available within the “Village Type Development” zone of Tsui Keng Village where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services.”

[Dr Wilton W.T. Fok left the meeting at this point.]

Sha Tin, Tai Po & North District

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-LT/471

Proposed Three Houses (New Territories Exempted Houses – Small Houses) in “Agriculture” zone, Lot 742 S.E, 742 S.G and 742 S.H in D.D. 10, Ng Tung Chai, Tai Po
(TPB Paper No. 9571)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

79. The following representative of Planning Department (PlanD) and the applicants’ representatives were invited to the meeting at this point.

Mr C.K. Soh	- District Planning Officer/Sh	Tai Po and North (DPO/STN), PlanD
Mr Poon Wood Keung]	
Mr Raymond Yip Fook Wah]	
Mr Chan Hon Piu]	Applicants’ representatives
Mr Leung Kwong Ming]	
Mr Sham Yu Kam]	

80. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN to brief Members on the review application.

81. With the aid of a Powerpoint presentation, Mr C.K. Soh made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to build three houses (New Territories Exempted House (NTEH) - Small House) at a site zoned “Agriculture” (“AGR”) on the Approved Lam Tsuen Outline Zoning Plan

(OZP);

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 8.2.2013 and the reasons were:
 - (i) the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (the Interim Criteria) in that there was still sufficient land available within the “Village Type Development” (“V”) zone to fully meet the future Small House demand; and
 - (ii) the applicants failed to demonstrate in the submission why there was no alternative land available within areas zoned “V” for the proposed development;
- (c) the site (about 405.1m²) was located on a slightly sloped area covered with weeds and within the village ‘environs’ (‘VE’) of Ng Tung Chai. It could be accessible via a footpath ;
- (d) the surrounding areas were predominantly rural in character with a mix of village houses, agricultural land, undisturbed vegetated fields, woodland trees and scattered temporary structures;
- (e) the justifications put forth by the applicants in support of the review application were summarised as follows:
 - (i) the Village Representative (VR) of Ng Tung Chai village submitted an updated 10-year forecast to District Lands Office/Tai Po of Lands Department (DLO/TP, LandsD) on 26.5.2013. The 10-year Small House demand forecast of Ng Tung Chai should be 99 and there was insufficient land in “V” zone to meet the demand for Small Houses;

- (ii) the applicants submitted a revised drainage plan and confirmed that there would be no backflow to the proposed houses; and
- (iii) a landscape proposal was submitted to provide a buffer planting between the proposed Small Houses and the greenery of the cultivation in the “AGR” zone. The surface of the retaining walls would be dressed up with artificial wall tile with colour and texture matching the surrounding environment so as to minimize visual impact. Similar treatment would be adopted for the surface channel covers;
- (f) previous application - there was no previous application for Small House development at the site;
- (g) similar applications – there were five similar applications (No. A/NE-LT/350, 395, 399, 400 and 499) for Small House developments in the vicinity of the site and within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000. Two applications (No. A/NE-LT/395 and 399) were rejected and three (No. A/NE-LT/350, 400 and 499) were approved by RNTPC or by the Board on review;
- (h) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. DLO/TP, LandsD advised that the latest figures on 10-year Small House demand and outstanding Small House application for Ng Tung Chai provided by the Indigenous Inhabitant Representatives (IIR) of Ng Tung Chai were 99 and 12 respectively and that the Department had no objection to the application. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from the agricultural point of view as there were active agricultural activities in the vicinity and the site had high potential for rehabilitation of agricultural activities. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advised that although the landscape proposals submitted in the review

application was considered acceptable, he had reservation on the application. The site was covered by shrubs and grass and significant adverse impact on landscape resources within the site was not anticipated. Although the proposed development might not be incompatible with the rural landscape character in the surrounding area, at present village houses were largely confined by the boundary of the “V” zone. The subject “AGR” zone was of good landscape quality. Approval of the application might set an undesirable precedent and encourage more village house developments in the “AGR” zone, resulting in an extension of village development beyond the existing “V” zone boundary, irreversibly altering the landscape character of the “AGR” zone. Should the Board approve the application, approval condition on submission and implementation of a landscape proposal was recommended. Other relevant Government departments had no objection/adverse comments on the application;

- (i) public comments – during the statutory publication period at s.17 review stage, a total of seven objecting comments were received. The main reasons were that the cumulative impact of urban sprawl on green land was irreversible; most villagers built houses for financial gain rather than accommodation; the VR had objected to rebuilding applications of other villagers; the proposed development was not in line with the planning intention of “AGR”; no impact assessments on the environmental, traffic, drainage and sewerage aspects were provided; the approval of the application would set an undesirable precedent and lead to reduction in farmland; there were agricultural activities at the site; the proposed development would cause adverse impacts to the surrounding area; the proposed development was located outside ‘VE’ and the development would have ‘fung shui’ impact; and
- (j) PlanD’s views – the planning considerations and assessments and PlanD’s views on the review application as set out in paragraphs 7 and 8 of the Paper were summarised below:

- (i) when the s.16 planning application was considered by RNTPC, based on the figures of the outstanding Small House applications (12) and 10-year Small House demand (57) provided by DLO/TP, LandsD, there was sufficient land in the “V” zone of Ng Tung Chai to meet the demand of village houses;
- (ii) however, according to the latest information provided by the VR to DLO/TP, LandsD, while the total number of outstanding Small House applications for Ng Tung Chai remained as 12, the 10-year demand forecast had been revised to 99. It was estimated that about 2.23ha (or equivalent to about 89 Small House sites) of land were available within the “V” zone of Ng Tung Chai. Therefore, the land available could not fully meet the updated Small House demand of Ng Tung Chai (i.e about 2.78 ha of land equivalent to about 111 Small House sites);
- (iii) the site was about 70m away from the main cluster of the village houses in Ng Tung Chai but there were some existing village houses adjacent to the site, which were either located entirely within “V” zone or were approved by the Land Authority in the early 1990s;
- (iv) the proposed three Small Houses were considered not incompatible with the surrounding environment;
- (v) the site fell within the water gathering ground (WGG) and would be able to be connected to the planned public sewerage system. The Director of Environmental Protection (DEP) and the Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) had no objection to the application;
- (vi) the review application was considered to be in compliance with the Interim Criteria in that, amongst others, there was now a general shortage of land in the subject “V” zone for Small House

development. However, it was observed that according to the information provided by DLO/TP, LandsD, the 10-year Small House demand forecast provided by the VR of Ng Tung Chai village had been revised several times between 2009 and 2014, i.e. from 50 in application No. A/NE-LT/350 in 2005 to 30 in applications No. A/NE-LT/ 359 and A/NE-LT/399 in 2009; then to 50 again when considering the s.17 review of application No. A/NE-LT/400 in 2010. The recent forecast also changed from 57 when the current application was considered at the s.16 stage in 2013 to 99 in 2014. The Small House demand forecast provided by the VR was not verified according to LandsD's general practice;

(vii) DAFC maintained his view of not supporting the application as the site had high potential for agricultural rehabilitation. The applicants had submitted a landscape proposal to address CTP/UD&L, PlanD's comment. While CTP/UD&L, PlanD considered the landscape proposal acceptable, she maintained her reservation on the application as the subject "AGR" zone was of good landscape quality. Other relevant Government departments consulted including the Commissioner for Transport (C for T) and the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) had no in-principle objection to the application;

(viii) the Small House demand forecast provided by the VR of the concerned village had been changed and had not been verified, and whether the proposed development generally complied with the Interim Criteria, in that whether there was a general shortage of land within the "V" zone for Small House development, would be a key consideration to decide whether the application should be approved; and

(ix) Members might consider whether the change in Small House demand forecast was justified. In any case, the applicants had not submitted any information to address RNTPC's concern as to why

no alternative land within the “V” zone was available for the Small house developments.

82. The Chairman then invited the applicants’ representatives to elaborate on the application.

83. Mr Leung Kwong Ming said that the applicants did not own any land within the “V” zone and hence was not able to make applications for Small House developments within the “V” zone.

84. Mr Sham Yu Kam made the following main points:

- (a) he was the father of one of the applicants. His family did not have any land within the “V” zone. The application site was located near the “V” zone and owned by his family for many generations. They wished to build Small House on the site for the next and future generations;
- (b) majority of the land within the “V” zone belonged to Tso Tong or under other private land ownership. It was difficult for the applicants to acquire such land for Small House development. They did not want to build Small Houses outside Ng Tung Chai village; and
- (c) the VR of Ng Tung Chai village had previously submitted an updated 10-year forecast to DLO/TP of LandsD which should be 99.

85. Mr Poon Wood Keung made the following main points:

- (a) he was the architect for the proposed development at the site;
- (b) the site was located entirely within the ‘VE’ and near the “V” zone. There were a number of Small Houses within 6m of the site. The site could be connected to the planned public sewerage system located about 50m to the west of the site. About 50m to the east of the site was a stream. As the site was located on a slightly sloped area, there would be

limited soil excavation and slope cutting for the development. There would be no adverse impact on the nearby stream and slopes during the construction of the Small Houses;

- (c) the site was suitable for Small House development which was compatible with the surrounding environment. Landscape works would be proposed and implemented within the site and its surroundings; and
- (d) taking account of the above, the Board should approve the application.

86. Mr Leung Kwong Ming continued to make the following points:

- (a) as regards PlanD's comment that the approval of the current application might set an undesirable precedent for other similar applications, the Board should consider each application based on its own merits;
- (b) the project for the public sewerage system would be completed by 2016-2017. The impact of the proposed Small House development on the surrounding area would be reduced;
- (c) the updated 10-year Small House demand forecast of 99 as clarified by the VR of Ng Tung Chai village in a letter dated 3.11.2013 to DLO/TP of LandsD, which was serious and with basis;
- (d) there were old and new Small Houses within 5m of the site. The proposed Small Houses would not be incompatible with the surrounding area; and
- (e) the site had been left vacant for many years. It was hoped that the Board would approve the application for Small House development at the site.

87. As the presentations from the representatives of PlanD and the applicant had been completed, the Chairman invited questions from Members.

88. The Chairman and Members had the following questions:

- (a) Noting that there was an increase in the 10-year Small House demand forecast provided by the VR of Ng Tung Chai village from 57 at the s.16 application stage to 99 at the s.17 review stage, what was the latest demand forecast?
- (b) What were the basis and criteria adopted by the VR in conducting the 10-year Small House demand forecast and would the figures be verified by a third party?
- (c) Was there any record on the number of indigenous villagers who had already made use of their rights to build Small Houses and those who had not?
- (d) Was the 10-year Small House demand forecast of 99 the number of indigenous villagers who were eligible to build Small Houses or was it the number of indigenous villagers who had told the VR that they would build Small Houses?
- (e) What were the total number of Small Houses in the village and the number of Small Houses constructed since 2009?
- (f) What were the reasons for approving the two similar applications No. A/NE-LT/350 and 499?
- (g) Noting that there were currently 89 Small House sites available to meet the Small House demand, why was land insufficient to meet the Small House demand of 62 (including 12 outstanding Small House applications and the 10-year demand forecast of 50) at the time when considering the review application No. A/NE-LT/400?

89. On question (a), Mr Sham Yu Kam said that the 10-year Small House demand forecast of 99 was provided by the VR of Ng Tung Chai village to DLO/TP in 2013 and there was no change in the figure since then. Mr Leung Kwong Ming supplemented that there was a misunderstanding between the VR and DLO/TP on the interpretation of the figure for the Small House demand forecast. VR originally filled in a figure of 30 for the Small House demand forecast on a form provided by DLO/TP, which was meant to be in addition to the existing Small House demand of 69. However, DLO/TP misunderstood that the total 10-year Small House demand forecast was 30. Due to this misunderstanding, VR wrote to DLO/TP in November 2013 clarifying that the total 10-year Small House demand forecast should be 99.

90. On question (b), Mr Sham Yu Kam said that in forecasting the 10-year Small House demand forecast, the VR had taken into account the number of both local and overseas indigenous villagers of three generations. Mr Leung Kwong Ming emphasised that the forecast provided by the VR was serious and with basis. Every year, local and overseas indigenous villagers with new-born baby boys would come back to the village to attend a lantern lighting ceremony at the ancestral hall and the names of the new-born baby boys would be added into the genealogy. Overseas villagers would also come back for the Dajiao festival and other festivals. Hence, there were regular updates of the number of indigenous villagers. Mr Sham supplemented that the Dajiao festival was held in Lam Tsuen every ten years and there would be a registration of the names of all indigenous male villagers on the genealogy before the festival. The last Dajiao festival was held in 2008.

91. In response to a Member's question on why the figure of the 10-year Small House demand forecast increased drastically if there was an annual update during the lantern lighting ceremony, Mr Leung Kwong Ming reiterated that the forecast provided by the VR to DLO/TP in May 2013 was correct. There was only a misunderstanding between the VR and DLO/TP on the interpretation of the figure. The VR had already made clarification to DLO/TP in his letter of November 2013.

92. Ms Bernadette H.H. Linn, Director of Lands, clarified that according to the information filled in by the VR on a form submitted to DLO/TP in May 2013, it was clearly stated that the 10-year Small House demand forecast was 30. There was no misinterpretation by DLO/TP. The VR subsequently wrote to DLO/TP informing that the

10-year Small House demand forecast should be revised from 30 to 99.

93. On question (c), Mr Leung Kwong Ming said that he would need to consult the VR on whether there was any record on the number of indigenous villagers who had already made use of their rights to build Small House and whether such record could be released to the Board.

94. On question (d), Mr Leung Kwong Ming said that in forecasting the 10-year Small House demand, the VR had taken into account the number of male indigenous villagers in each family. However, he could not represent the VR to confirm whether those indigenous villagers would apply for Small Houses in future.

95. On question (e), Mr Sham Yu Kam said that according to his observation, there had been about ten new Small Houses built in the village since 2009. Mr C.K. Soh said that he had no readily available information on the number of existing Small Houses in the village and the number of Small Houses constructed since 2009. He only had information on the land currently available within the “V” zone of the village which could accommodate 89 Small House sites. He also confirmed that at the s.16 application stage, the number of outstanding Small House applications was 12 and the 10-year Small House demand forecast was 57, resulting in a total Small House demand of 69. At the s.17 review stage, the number of outstanding Small House applications remained as 12 but the 10-year Small House demand forecast increased to 99, resulting in a total Small House demand of 111.

96. On question (f), Mr C K Soh said that the main consideration of the Board to approve or reject similar applications was whether there was sufficient land within the “V” zone to meet the Small House demand of the village. With the aid of a Powerpoint slide, he presented a table showing the 10-year Small House demand forecast figures of the village between 2009 and 2014 and whether land was sufficient to meet the Small House demand under the five similar applications (No. A/NE-LT/350, 395, 399, 400, 499) and the current application. He said that applications No. A/NE-LT/350 and 499 were approved by the Board as there was insufficient land to meet the Small House demand whereas applications A/NE-LT/395 and 399 were rejected as there was sufficient land to meet the Small House demand. For application No. A/NE-LT/400, the 10-year Small House

demand forecast had increased from 30 at the s.16 stage to 50 at the s.17 review stage. As there was insufficient land to meet the demand at the s.17 stage, the application was approved. The situation was similar to that of the current application in which the 10-year Small House demand forecast increased from 57 at the s.16 stage to 99 at the s.17 review stage. In response to Ms Bernadette H.H. Linn's question, Mr Soh confirmed that the Board had taken into account the 10-year Small House demand forecast of 99 in approving Application No. A/NE-LT/499.

97. On question (g), Mr C.K. Soh said that there had been a change in the assumption on the number of Small House sites per hectare of land when the Board considered the review application No. A/NE-LT/400 and the current application. When considering the review application No. A/NE-LT/400, an assumption of 30 Small Houses per hectare was used for assessing the number of Small House sites available within the "V" zone. Subsequently, PlanD had reassessed the amount of land required for a Small House development and considered that an assumption of 40 Small Houses per hectare was more appropriate. The revised assumption was then used in assessing the amount of Small House sites available when considering application No. A/NE-LT/499 and the current application.

98. As the applicant's representatives had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedure for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and DPO/STN for attending the meeting. They all left the meeting at this point.

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

Deliberation Session

10-year Small House Demand Forecast

99. The Vice-chairman considered that there was a need to review the current practice of considering planning applications for Small House development. Currently,

PlanD and the Board took into account both the number of outstanding Small House applications and the 10-year Small House demand forecast in assessing whether there was a general shortage of land in meeting the demand for Small House development in a “V” zone. If there was a general shortage of land, sympathetic consideration might be given to Small House applications on sites located outside or partly outside “V” zone. However, he was concerned that the 10-year Small House demand forecast was merely based on the advice of VRs without verification from the relevant Government departments. In case of a drastic increase in the forecast demand, it was difficult for the Board to verify the accuracy of the figures. As such, the Board might consider whether only the existing Small House demand and the amount of Tso Tong land within the “V” zone should be taken into account when considering an application for Small House development. If after excluding the amount of Tso Tong land, there was still sufficient land to meet the existing Small House demand, the Board would not approve applications for Small House development on sites outside the “V” zone. This would prevent proliferation of Small House developments outside the “V” zone based on an unverifiable Small House demand forecast.

100. A Member shared the view of the Vice-chairman and considered that in deciding whether to approve an application for Small House development, the Board should not just base on the 10-year Small House demand forecast which was unverifiable to decide whether land was sufficient in meeting the Small House demand within a “V” zone. Other considerations, e.g. the number of Small Houses actually built in the past few years, should also be taken into account.

101. The Chairman pointed out that planning should be forward-looking and hence it might not be appropriate just to take into account the existing Small House demand while ignoring the forecast demand. On the other hand, he said that the applicant’s claim that he did not own any land within the “V” zone should not be a valid reason for granting planning permission.

102. Another Member concurred with the Vice-chairman’s view that there was a need to review the existing practice of the Board in considering Small House applications. It would be more reasonable to take into account only the existing Small House demand, rather than the unverifiable 10-year demand forecast. As regards forward planning, this

Member considered that in designating a “V” zone on an OZP, the Board should take into account the future Small House demand.

103. The Secretary said that in designating a “V” zone on an OZP, PlanD would consider whether the amount of land within the “V” zone could meet the outstanding Small House demand as well as the 10-year Small House demand forecast. However, it should be noted that some “V” zones were designated a long time ago and there might be changes in the Small House demand over the years. As there might not be adequate land near the existing village cluster suitable for designating as “V” zone to meet the Small House demand, the planning permission mechanism allowed the Board to consider and approve Small House applications at suitable locations outside or partly outside the “V” zone to cater for the genuine demand. She said that in the course of preparing some new draft OZPs, PlanD also encountered difficulties in verifying the 10-year Small House demand forecast provided by VRs.

104. Noting Members’ doubt on the 10-year Small House demand forecast provided by the VR of Ng Tung Chai village, the Chairman suggested that Members could consider deferring a decision on the application and inviting the VR to the meeting to justify his forecast with supporting evidence for the Board’s consideration. Representatives from LandsD should also be invited to the meeting to provide relevant information on the Small House applications of Ng Tung Chai village.

105. Five Members considered that a decision on the application should be deferred and that the VR should be invited to clearly explain to the Board the basis of his forecast and provide relevant records to verify the forecast, e.g. the genealogy, records of eligible indigenous villagers, the annual increase in the number of eligible indigenous villagers and the number of eligible indigenous villagers who had already made use of their rights to build Small Houses. There was a need for verification of the 10-year Small House demand forecast figures provided by VRs.

106. A Member said that while the 10-year Small House demand forecast might provide a good reference for future planning, there was no guarantee that all the demand would materialise. This Member noted that there were currently 89 Small House sites available for future development. Hence, after discounting the 12 outstanding Small

House applications, there was still a reserve of 77 Small House sites within the “V” zone. Given that land was still available within the “V” zone to meet existing and future Small House demand, it would not be desirable to approve Small House developments on sites outside the “V” zone.

107. Another Member shared the same view and considered that the 10-year Small House demand forecast of 99 was only marginally higher than that reserve of Small House sites. As such, it was not justifiable to grant approval for the proposed Small House development outside the “V” zone based on that forecast.

Similar Application No. A/NE-LT/499

108. A Member noted that a similar planning application No. A/NE-LT/499 was approved by RNTPC based on the same 10-year Small House demand forecast of 99 as provided in the current review application. That application site was in close proximity of the current application site. This Member wondered if it was a relevant consideration for the current application.

109. Another Member said that RNTPC was not aware of the drastic change in the Small House forecast when considering application No. A/NE-LT/499. This Member considered that the approval of that application should not affect the decision of the current application as each application should be considered by the Board taking into account the most up-to-date information and circumstances. Another Member supplemented that the site under the current application fell entirely outside the “V” zone whereas more than half of the application site under application No. A/NE-LT/499 fell within the “V” zone. As such, the two applications did not warrant the same consideration.

110. Ms Bernadette H.H. Linn asked if RNTPC had taken into account the fact that there was still land available within the “V” zone of the village (i.e. 89 Small House sites) to meet the Small House demand when considering application No. A/NE-LT/499. The Secretary said that the relevant information and fact had been included in the paper submitted to RNTPC for that application.

The Interim Criteria

111. In response to the Chairman's question, the Secretary said that the Board had adopted the Interim Criteria for consideration of application for NTEH/Small House in the New Territories since 2000 with the latest revision in 2007. According to the Interim Criteria, the main considerations for approving a Small House application were whether the footprint of the proposed Small House fell within or partly within 'VE' and whether there was a general shortage of land within the "V" zone in meeting the Small House demand of the village. If not less than 50% of the Small House footprint fell within 'VE' and there was a general shortage of land in meeting the Small House demand, sympathetic consideration would normally be given to the application. If more than 50% of the Small House footprint was located outside 'VE', favourable consideration could be given if not less than 50% of the footprint fell within the "V" zone, provided that there was a general shortage of land in meeting the Small House demand. She said that in assessing whether there was a general shortage of land, both the number of outstanding Small House applications and the 10-year Small House demand forecast would be taken into account. As there was a difficulty in verifying the 10-year Small House demand forecast provided by the VR, inviting the VR to explain the basis for his forecast would assist the Board in understanding the matter better.

112. In response to the Vice-Chairman's suggestion that only the existing outstanding Small House applications should be taken into account when considering Small House applications, the Secretary said that the Board had been applying the Interim Criteria in considering planning applications for Small House developments, and the outstanding applications and the 10-year Small House demand forecast were taken into account. Should Members consider that there was a need to change certain criteria, a review of the Interim Criteria by the Board had to be undertaken. Members generally agreed that the Board should consider the application based on the existing Interim Criteria.

113. After discussion, Members generally agreed to defer a decision on the application and to invite the VR of Ng Tung Chai village to clarify before the Board the basis of his 10-year Small House demand forecast and provide relevant records as suggested in paragraph 105 above for verifying the forecast. Besides, DLO/TP, LandsD

should also be invited to attend the Board's meeting to provide further information including the forecast demand figures submitted by the VR of Ng Tung Chai village in the past 10 years as well as the actual number of Small House applications and the number of Small Houses built in the past 10 years.

114. After deliberation, the Board decided to defer a decision on the application pending further information to be provided by the VR of Ng Tung Chai village and DLO/TP, LandsD in relation to the 10-year Small House demand forecast and the relevant Small House figures in the past 10 years. The Planning Department was requested to coordinate with the VR and DLO/TP, LandsD in this respect.

[The meeting was adjourned for a 20-minute break for a photo session.]

[Professor S.C. Wong, Mr Timothy K.W. Ma, Mr Rock C.N. Chen, Professor P.P. Ho, Mr. Laurence L.J. Li, Dr Wilton W.T. Fok, Mr Lincoln L.H. Huang, Mr Patrick H.T. Lau and Mr Stephen H.B. Yau left the meeting at this point.]

Tuen Mun & Yuen Long West District

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TT/315

Temporary Open Storage of Construction Machinery and Materials for a Period of 3 Years in “Agriculture” zone, Lot 1339 (Part) in D.D. 117 and Adjoining Government Land, Tai Tong, Yuen Long

(TPB Paper No. 9537)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Mr W.S. Lau - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLW), PlanD

116. The Chairman extended a welcome and said that the applicant had indicated that he would not attend the meeting. As sufficient notice had been given to the applicant, Members agreed to proceed with the hearing in the absence of applicant. The Chairman then invited DPO/TM&YLW to brief Members on the review application.

117. With the aid of a Powerpoint presentation, Mr W.S. Lau made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for temporary open storage of construction machinery and materials for a period of 3 years at a site zoned “Agriculture” (“AGR”) on the approved Tai Tong Outline Zoning Plan (OZP);
- (b) the Rural and New Town Planning Committee (RNTPC) rejected the

application on 27.9.2013 and the reasons were:

- (i) the development was not in line with the planning intention of the “AGR” 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. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
 - (ii) the development under application did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). There was no previous planning approval granted to the site and there were adverse departmental comments and local objections against the application;
 - (iii) the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas; and
 - (iv) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area;
- (c) the site was about 3,042m² including Government land of about 906m². There were three temporary structures with a total floor area of about 100m² and height of about 3m (i.e. 1 storey) for office, guard room and toilet uses. There were two parking spaces for private car and light goods vehicle. The operation hours of the site were between 9:00 a.m. and 5:00 p.m. from Monday to Saturday with no operation on Sunday and public holidays;
- (d) the site was accessible from Tai Tong Road to its northwest via a local

access track. The surrounding land uses were dominated by scattered residential structures with a few storages/warehouses, workshops, vacant/unused land and a pond. Residential structures were located to the northwest along the local access track and in the vicinity of the site with the nearest ones about 5m to the immediate north and south. To its northeast was the “Green Belt” (“GB”) zone comprising wooded knolls, graves and some scattered structures. The workshops and storages/warehouses to its north, northwest and southeast were suspected unauthorised developments subject to enforcement action to be taken by the Planning Authority;

- (e) on 3.1.2014, the applicant submitted a letter providing written representations with supporting letters and proposals in support of the review application and proposing to shorten the approval period sought from 3 years to 1 year;
- (f) the justifications put forth by the applicant in support of the review application were summarised as follows:
 - (i) the site was situated within “Category 3 areas”. Relevant technical assessments/proposals, including drainage and landscape and tree preservation proposals, had been submitted in support of the application. The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had no in-principle objection to the application. The Director of Agriculture, Fisheries and Conservation (DAFC) also had no strong view on the application even though the site was zoned “AGR” because the site had long been occupied for open storage use;
 - (ii) Tai Tong Road and Kung Um Road/Kiu Hing Road were the only access roads leading to the “Open Storage” (“OS”) zone to the south of the site. Since the applied use generated only 1

goods vehicular trip (not exceeding 24 tonnes) every two days from Monday to Saturday, the impact on the nearby residents and sensitive uses was minimal;

- (iii) the applicant had submitted a landscape and tree preservation proposal which proposed planting double rows of trees and a landscaped area at the site. No open storage activity was proposed within the landscaped area;
- (iv) according to the aerial photo taken on 5.10.1990, a formed vehicular access and open storage activity were observed on the site. Similar open storage activities were shown in the aerial photos in 1990 and 1992 which were very different from 'destroy first' case and sympathetic consideration should be given;
- (v) the approval of the application would not set an undesirable precedent because the Board would assess each application based on individual merits. Approval of the case would regularise the applied use and provide incentive for upgrading the environment as the applicant would be required to submit and implement landscape and tree preservation, drainage and fire service installations (FSI) proposals. Besides, no environmental complaints were received in the past 3 years and the actual impact of the applied use was negligible;
- (vi) the applicant needed time to relocate the construction machinery and materials at the site and solicited the Board's sympathetic consideration to approve the application for a period of 1 year; and
- (vii) the 3 members of the public who raised objection to the application had withdrawn their objections;

- (g) previous application – there was no previous application covering the site;

- (h) similar applications – there were two similar applications (No. A/YL-TT/81 and 306) for open storage/warehouse uses within the subject “AGR” zone rejected by RNTPC. The main rejection reasons were that the proposed developments were not in line with the planning intention of the “AGR” zone; the developments were not compatible with the surrounding rural character; and the approval would set an undesirable precedent for similar uses to proliferate into the “AGR” zone;

- (i) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. The Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers within 100m of the site. There were residential dwellings in the immediate vicinity of the site and close to the access road (Tai Tong Road) to the site. Heavy vehicle traffic was expected to travel along any access road within 50m from the nearest sensitive use. Environmental nuisance was expected from the loading and unloading activities. It was environmentally undesirable to allow such nuisances to begin or continue to affect residents. CTP/UD&L, PlanD had reservation on the application. The site was mostly covered by vegetation with a number of existing trees of noticeable sizes in 1990. At present, nearly all the green cover of the site had been removed and noticeable disturbance to the existing landscape character and resources of the site was caused. The actual landscape impact arising from the proposed use could not be fully ascertained as there was no tree survey submitted nor information provided on the condition and value of the original vegetation/trees on the site prior to clearance. The submitted landscape and tree preservation proposals could not demonstrate that the proposed landscape planting/treatment could fully mitigate the adverse landscape impact arising from the proposed use. CE/MN, DSD had no in-principle objection to the application from drainage viewpoint provided that there was no adverse drainage impact on the adjacent areas and maintained his previous comments on the drainage proposal;

- (j) public comments - during the statutory publication period at the s.17 review stage, nine public comments were received. Three comments objected to the application mainly for the reasons that the development was not in line with the planning intention of the “AGR” zone; it would set an undesirable precedent for similar applications; ‘Destroy First, Build Later’ cases should not be tolerated; and there were potential environmental and traffic impacts. Six comments supported the application mainly on the grounds that the applied use would not generate adverse visual, landscape, traffic and noise impacts nor bring about nuisances to surrounding residents; the site had been used for open storage since 1990s and had low potential for agricultural rehabilitation; and the approval of the application would generate local employment opportunities. During the statutory publication period at the s.16 stage, five objecting public comments had been received mainly on the grounds that the development would lead to land use incompatibility, potential environmental, visual and traffic impacts, safety concerns and degradation of the rural environment; there was sufficient land available for the applied use; and there were impacts on land available for agricultural use;

- (k) PlanD’s views – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of the Paper and summarised below:
 - (i) the proposed development was not in line with TPB PG-No. 13E in that there was no previous approval granted at the site for open storage use. Relevant proposals, including landscape and tree preservation proposal and drainage proposal, were not accepted by concerned Government departments. CTP/UD&L, PlanD had reservation on the application from the landscape planning perspective. The applicant failed to demonstrate that the proposed landscape planting/treatment could fully mitigate the adverse landscape impact arising from the applied use. The submitted drainage proposal at the s.16 stage had yet to be accepted by

CE/MN of DSD, but no further submission was made by the applicant at the s.17 stage. In this regard, the applicant failed to demonstrate that the development would not generate adverse drainage impacts on the surrounding areas;

- (ii) DEP did not support the review application as there were sensitive receivers located within 100m of the site and vehicles were expected to travel along the local track within 50m from the nearest sensitive uses. Environmental nuisance was expected from the loading and unloading activities and vehicular traffic generated by the site. It was environmentally undesirable to allow such nuisances to begin or continue to affect residents. The applicant failed to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas;
- (iii) the site was mainly rural in character and largely overgrown with vegetation based on the aerial photo taken on 5.10.1990. Intensive vegetation clearance and site formation had subsequently extended south-eastwardly eroding into the natural landscape as observed on the aerial photos taken on 14.10.1992 and 30.7.2012. According to the latest aerial photo taken on 30.6.2013 and site visit conducted by PlanD on 27.2.2014, the entire site had been fully paved and occupied for the applied use. Occupation of the site for the applied use without any prior planning permission and thus creating a fait accompli situation to justify for the current proposal should not warrant sympathetic consideration and should not be tolerated; and
- (iv) since there was no previous planning approval granted at the site and there had not been any planning approval for storage/warehouse use in the same “AGR” zone, the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications to proliferate into the “AGR” zone, causing degradation of the surrounding rural environment.

118. As the presentations from the representative of PlanD had been completed, the Chairman invited questions from Members. As Members had no question, the Chairman thanked DPO/TM&YLW for attending the meeting. He left the meeting at this point.

Deliberation Session

119. Members noted that the proposed development was not in line with the planning intention of the “AGR” zone and the TPB PG-No.13E. The applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas. There was no previous planning approval granted to the site and there were adverse departmental comments on the application. In this regard, Members generally agreed that the review application should be rejected.

120. After deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- “(a) the development is not in line with the planning intention of the “AGR” zone which is 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the development under application does not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). There is no previous planning approval has been granted to the site and there are adverse departmental comments and local objections against the application;
- (c) the applicant fails to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the

surrounding areas; and

- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.”

Kowloon District

Agenda Item 9

[Open Meeting]

Request for Deferment of Review of Application No. A/K9/250

Proposed Hotel in “Residential (Group A)” zone, 54–56 Ma Tau Wai Road, Hung Hom
(TPB Paper No. 9594)

[The meeting was conducted in Cantonese.]

121. Lanbase Surveyors Ltd. and CKM Asia Ltd. were the consultants of the applicant. The following members had declared their interest in this item:

Mr Patrick H.T. Lau - Having current business dealings with Lanbase Surveyors Ltd.

Professor P.P. Ho - Having current business dealings with CKM Asia Ltd.

Professor S.C. Wong - Being the director of the Institute of Transport Studies of the University of Hong Kong and CKM Asia Ltd. had sponsored some activities of the Institute.

122. Members noted that Mr Patrick H.T. Lau, Professor P.P. Ho and Professor S.C. Wong had already left the meeting.

123. The Secretary reported that the application had been deferred once for two months at the request by the applicant. On 10.3.2014, the applicant’s representative wrote to the Secretary of the Board and requested the Board to further defer making a decision on the review application for another two months. The applicant stated that a Town Planning Appeal under s.17B of the Town Planning Ordinance for a hotel development in “Residential (Group A)” (“R(A)”) zone (planning application no. A/H1/93) at Yat Fu Lane, Shek Tong Tsui was successful (the date of decision being 27.2.2014). The applicant

would need some time to analyse the whole situation and the similarities of the appeal case and the subject application.

124. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33) in that more time was required for the applicant to prepare supplementary information, the deferment period is not indefinite, and the deferment would not affect the right or interest of other relevant parties.

125. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant and the review application would be submitted for its consideration within three months upon receipt of further submission from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicant that the Board had allowed a maximum period of two months for preparation of submission of further information. Since it was the second deferment of the application, the Board had allowed a total of four months for preparation of submission of further information, and no further deferment would be granted unless under very special circumstances.

Sai Kung and Islands District

Agenda Item 10

[Open Meeting (Presentation and Question Session only)]

Preliminary Consideration of Draft Tung A and Pak A Outline Zoning Plan No. S/SK-TA/A
(TPB Paper No. 9583)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Mr Ivan Chung - District Planning Officer/Sai Kung and Islands
(DPO/SKIs), PlanD

127. The Chairman extended a welcome and invited DPO/SKIs to brief Members on the background of the Paper.

128. With the aid of a Powerpoint presentation, Mr Ivan Chung made the following main points as detailed in the Paper:

Background

- (a) on 19.8.2011, the draft Tung A and Pak A Development Permission Area (DPA) Plan No. DPA/SK-TA/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance);
- (b) pursuant to section 20(5) of the Ordinance, the Tung A and Pak A DPA Plan was effective only for a period of 3 years until 19.8.2014. As such, an Outline Zoning Plan (OZP) had to be prepared to replace the DPA Plan in order to maintain statutory planning control over the Tung A and Pak A area (the Area) upon expiry of the DPA Plan;

- (c) on 15.3.2014, under the power delegated by the Chief Executive, the Secretary for Development directed the Board, under section 3(1)(a) of the Ordinance, to prepare an OZP to cover the Area;

The Planning Scheme Area

- (d) the Area covered a total area of about 20.41 ha. It comprised three areas, namely, Tung A (about 9.47 ha), Pak A (about 10.1 ha) and Chau Tsai (about 0.84 ha). Tung A and Pak A were completely encircled by the Sai Kung East Country Park (SKECP) whilst Chau Tsai was a small island which linked up with Pak A by a sand bar during low tide. Tung A Village and Pak A Village were the only two indigenous villages in the Area;
- (e) about 75% of the Area was Government land while 25% were private land of mainly fallow agricultural land and building lots in the existing villages;

Tung A

- (f) Tung A resembled an inverted L-shape located at the eastern part of the Area. There were mountain ranges to the north, east and south of Tung A. The south-western part of Tung A was a piece of coastal low-lying area with a small knoll at its fringe (i.e. Sha Kiu Tau). An abandoned salt pan was found on the knoll. Tung A mostly remained of natural, rural, countryside with tranquil and visual coherence, except for some rural village houses and a vacant school (i.e. Leung Shuen Wan School with playground);
- (g) village houses of one to two storeys in height were clustered along the lower coastal area while shrubland, woodland and stream courses were embracing the village houses to the north, east and south of the Area. Apart from Tung A Village which was an indigenous village, there was a cluster of fisherman settlements at Sha Kiu Tau in the south-western part

of Tung A. Some of the existing houses in Tung A were still being used for habitation while some others were in dilapidated conditions or left vacant. Restaurants could be found on the ground floors of the village houses. There was a Tin Hau Temple at the middle part of Tung A;

Pak A

- (h) Pak A was located at the opposite side of Tung A across the cove of the Rocky Harbour. Mountain ranges of Tai She Wan were located to its north and west. The eastern and southern parts of Pak A were coastal low-lying areas. Pak A was characterised by a rural and countryside ambience, comprising mainly village houses, shrubland, young woodland developed from fallow agricultural land, woodland and stream courses;
- (i) village houses were one to two storeys in height and clustered in the middle part along the coastal area. Some of the houses in Pak A were still being used for habitation while some other houses were in dilapidated conditions or left vacant. The ground floor of a village house was being used as a restaurant. Two large pieces of fallow agricultural land were located in the northeast and south-western of Pak A and were overgrown with dense vegetation;

Issues Arising from Consideration of the DPA Plan

- (j) during the two-month plan exhibition period of the draft DPA Plan, a total of 4 representations were received. Some representers proposed that conservation zonings such as “Conservation Area” (“CA”) should be designated to facilitate the restriction and regulation of incompatible developments on those ecologically sensitive areas (e.g. dense woodland). Since the Area was in lack of drainage and sewerage systems, conservation zonings were needed for the areas adjacent to the stream courses and coastal areas in order to prevent any potential developments from affecting the natural streams and marine ecology. The authority

should consider incorporating sensitive areas into SKECP to better conserve the integrity of the Area and processing of Small House grant should be suspended to avoid adding more development pressure and increasing demand for compensation. Other representers proposed that “Village Type Development” (“V”) zone, covering both Tung A Village and Pak A Village, should be expanded to accommodate the future demand for Small House development from villagers in Hong Kong and abroad;

- (k) besides, since the gazettal of the draft DPA Plan on 19.8.2011, there was one planning application (No. A/DPA/SK-TA/1) for house redevelopment in Chau Tsai, which was approved with conditions by the Rural and New Town Planning Committee (RNTPC) of the Board on 11.1.2013;

Land for Village Development

- (l) since the publication of the DPA Plan, the local villagers had been asking for reservation of sufficient land in the Area to cope with the Small House demand. The Rural Committee (RC) and the Indigenous Inhabitant Representatives of Tung A and Pak A Villages had also maintained that the indigenous villagers should be allowed to build Small House within village ‘environs’ (‘VE’). They requested that the fallow agricultural land should be reserved for Small House development to meet the 10-year Small House forecast demand since rehabilitation of agriculture was highly unlikely;
- (m) noting the requests and concerns of both the locals and environmental concern groups, PlanD had assessed the Small House demand of Tung A and Pak A Villages by obtaining the latest information on the 10-year forecast of Small House demand from the District Lands Officer/Sai Kung (DLO/SK) in December 2013. As advised by DLO/SK, the Village Representatives (VRs) of Tung A Village and Pak A Village had indicated that the 10-year forecast of Small House demand for Tung A

Village and Pak A Village were 80 and 148 respectively (as compared with the previous figures of 8 in Tung A and 140 in Pak A for the period of 2011 to 2020 when the DPA Plan was prepared in 2011). Besides, there was one outstanding Small House application in Pak A Village. Based on PlanD's preliminary estimate, the total land area required for meeting the total Small House demand of 229 (the outstanding and the 10-year forecast for Small House demand were 1 and 228 respectively) equated to about 5.7 ha (i.e. about 2 ha in Tung A and 3.7 ha in Pak A or equivalent to about 80 and 149 Small House sites respectively);

- (n) in the absence of verification for the 10-year forecast demand and noting that there was only one outstanding application for Pak A Village, PlanD had adopted a prudent approach to include only suitable areas into the "V" zone. Such other considerations as 'VE', local topography, existing settlement pattern, site constraints, etc. had been taken into account in drawing up the "V" zones within the Area. Areas with dense vegetation, characterized by difficult terrain and areas near the stream courses had been avoided as far as possible;
- (o) the currently proposed "V" zones on the draft OZP, covering a total area of about 3.45 ha, fell entirely within 'VE'. The area reserved for Small House developments comprised mainly the existing fallow agricultural land in northern Pak A and the abandoned salt pan in western Tung A. The total developable land reserved for new Small House developments amounted to about 1.98 ha, equivalent to about 79 Small House sites, which could satisfy about 35% of the total 10-year forecast of Small House demand in the Area (i.e. 79 out of 229);
- (p) although the area of the proposed "V" zone could not meet all the current forecast of Small House demand, the planning application system would enable the villagers to apply for Small House development outside "V" zone subject to the Board's approval;

Land Use Zonings

Residential (Group C) (“R(C)”) – 0.01 ha

- (q) this zone was intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. A site at Chau Tsai was zoned “R(C)” to reflect a development scheme with a maximum plot ratio, site coverage and building height of 1.31, 65.55%, 2 storeys and 13.12mPD approved by the Board on 11.1.2013;

“Village Type Development” (“V”) – 3.45 ha

- (r) the planning intention of this zone was to reflect existing recognized villages and the fishermen settlement. Land within this zone was primarily intended for development of Small Houses by indigenous villagers;
- (s) the boundaries of the “V” zone were drawn up having regard to ‘VE’, local topography, existing settlement pattern, site constraints, approved applications for Small House development, outstanding Small House application, as well as estimated Small House demand. Areas of difficult terrain, dense vegetation and stream courses had been avoided as far as possible. As diversion of streams or filling of pond might cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board was required for such activities;
- (t) for the protection of the water quality of the streams and Rocky Harbour, the design and construction of on-site septic tanks and soakaway system should comply with relevant standards and regulations, such as the Environmental Protection Department’s Practice Note for Professional Persons (ProPECC) 5/93;

“Government, Institution or Community” (“G/IC”) – 0.27 ha

- (u) this zone was intended primarily for the provision of Government,

institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. A vacant primary school (ex-Leung Shuen Wan School and its playground), Tin Hau Temple (Grade 3 historic building), a village office and a Government refuse collection point were under this zone;

“Open Space” (“O”) – 0.51 ha

- (v) this zone was primarily intended for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of the local residents as well as the general public. A pavilion, two sandy beaches, a sitting-out area with a public toilet and an open area abutting the Tin Hau temple were zoned “O” to reflect their existing use;

“Other Specified Uses” (“OU”) – 0.11 ha

- (w) this zone was intended primarily for the provision of land for pier use serving the needs of the community. Nine piers were zoned “OU(Pier)” on the draft OZP to reflect their existing use;

“Green Belt” (“GB”) – 13.46 ha

- (x) the planning intention of this zone 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 within this zone;
- (y) the “GB” zoning mainly covered the wooded slopes at the periphery of Tung A and Pak A which were contiguous with the expanse of vegetation in the adjoining SKECP and form part of the wider ecosystem therein. Protected species such as *Aquilaria sinensis* (土沉香), *Pavetta hongkongensis* (香港大沙葉), and *Rhodoleia championii* (紅花荷), as well as species of conservation interest including *Artocarpus hypargyreus* (白桂木) and *Celtis biondii* (紫彈朴) had been recorded;

“Coastal Protection Area” (“CPA”) – 2.6 ha

- (z) this zoning was intended to conserve, protect and retain the natural

coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There was a general presumption against development in this zone. It included the entire coastal fringe of Chau Tsai, the rocky/sandy shore of Tung A and Pak A;

Consultation

- (aa) prior to the preparation of the draft OZP, the Sai Kung Rural Committee (SKRC) and the VRs had been consulted and joint visit with them were conducted. Subsequently, the draft OZP together with its Notes and Explanatory Statement (ES) and the Planning Report had been circulated to the relevant Government bureau and departments for comments. Comments received had been incorporated into the draft OZP, its Notes and ES and Planning Report as appropriate;
- (bb) the draft Tung A and Pak A OZP No. S/SK-TA/C had been endorsed by circulation by the New Territories District Planning Conference (NT DipCon) for submission to the Board; and
- (cc) subject to the agreement of the Board, the draft OZP No. S/SK-TA/C would be submitted to SKDC and SKRC for consultation. Comments from SKDC and SKRC would be submitted to the Board for consideration prior to the publication of the draft OZP under section 5 of the Ordinance.

129. As the presentation from the representative of PlanD had been completed, the Chairman invited questions and comments from Members.

130. Noting that there was only one outstanding Small House application in Pak A, the Vice-chairman enquired about the current population and the number of existing Small Houses in the Area. Mr Ivan Chung, DPO/SKIs, advised that according to the 2011 Census, the population in Tung A and Pak A was less than 50. He had no readily available information on the number of existing Small Houses in the Area. According to

his observation during site visits, there were Small House clusters in Tung A and Pak A but most of the houses were vacant.

131. After deliberation, Members agreed that:

- (a) the draft Tung A and Pak A OZP No. S/SK-TA/C (Appendix I of the Paper) together with its Notes (Appendix II of the Paper) was suitable for consultation with SKDC and SKRC;
- (b) ES (Appendix III of the Paper) was suitable to serve as an expression of the planning intentions and objectives of the Board for various land use zonings of the draft Tung A and Pak A OZP No. S/SK-TA/C and ES should be issued under the name of the Board; and
- (c) the ES (Appendix III of the Paper) was suitable for consultation with SKDC and SKRC together with the draft OZP.

Procedural Matters

Agenda Item 11

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Hoi Ha Outline Zoning Plan No. S/NE-HH/1

(TPB Paper No. 9601)

[The meeting was conducted in Cantonese.]

132. The Secretary introduced the Paper. On 27.9.2013, the draft Hoi Ha Outline Zoning Plan (OZP) No. S/NE-HH/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, a total of 10,934 representations were received. The representations were subsequently published for three weeks and 3,675 comments were received.

133. Since the representations and comments were mainly related to the extent of the “Village Type Development” (“V”) zone, conservation of the natural environment and landscape of the Hoi Ha area, it was recommended that the representations and comments should be considered by the full Board.

134. As the representations and the related comments from the villagers and green/concern groups and individuals were different, it was suggested that the representations and comments be considered in two groups:

Group 1

- (a) collective hearing of the first group comprising 812 representations (R1 to R798 and R10,736 to R10,749) submitted by the Sai Kung North Rural Committee, villagers and individuals, in relation to the insufficient “V” zone on the OZP to satisfy the demand for Small House developments; and

Group 2

- (b) collective hearing of the second group comprising 10,122 representations (R799 to R10,735 and R10,750 to R10,934) and 3,675

comments (C1 to C3,675), submitted by individuals, Legislative Council and District Council members, environmental and local concern groups and organizations in relation to the excessive “V” zone, the potential environmental problem brought by the proposed Small Houses to the woodland habitats and the marine life of Hoi Ha Wan Marine Park, and overall conservation of the area.

135. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations and comments as detailed in paragraphs 3.1 to 3.3 of the Paper.

Agenda Item 12

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft So Lo Pun Outline Zoning Plan No. S/NE-SLP/1
(TPB Paper No. 9602)

[The meeting was conducted in Cantonese.]

136. The Secretary introduced the Paper. On 27.9.2013, the draft Draft So Lo Pun Zoning Plan (OZP) No. S/NE-SLP/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, a total of 10,858 representations were received. The representations were subsequently published for three weeks and 3,677 comments were received.

137. Since the representations and comments were mainly related to the extent of the “Village Type Development” (“V”) zone, conservation of the natural environment and landscape of the So Lo Pun area, it was recommended that the representations and comments should be considered by the full Board.

138. As the representations and the related comments from the villagers and green/concern groups and individuals were different, it was suggested that the representations and comments be considered in two groups:

Group 1

- (a) collective hearing of the first group comprising 880 representations (R1 to R798 and R10,736 to R10,817) and nine comments (C3,669 to C3,677) submitted by the submitted by villagers, Village Representatives of relevant indigenous villages, Sha Tau Kok Rural Committee and individuals, in relation to the insufficient “V” zone on the OZP to satisfy the demand for Small House developments; and

Group 2

- (b) collective hearing of the second group comprising 9,978 representations (R799 to R10,735 and R10,818 to R10,858) and 3,668 comments (C1 to C3,668), submitted by individuals, Legislative Council and District Council members, environmental and local concern groups and organizations in relation to the excessive “V” zone, the potential environmental problem brought by the proposed Small Houses would pose a severe threat to the important habitats and species of the area.

139. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations and comments as detailed in paragraphs 3.1 to 3.3 of the Paper.

Agenda Item 13

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Pak Lap Outline Zoning Plan No. S/SK-PL/1
(TPB Paper No. 9603)

[The meeting was conducted in Cantonese.]

140. The Secretary introduced the Paper. On 27.9.2013, the draft Pak Lap Outline Zoning Plan No. S/SK-PL/1 (the OZP) was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, a total of 10,775 representations were received. The representations were subsequently published for three weeks and 3,669 comments were received.

141. Since the representations and comments were mainly related to the extent of the “Village Type Development” (“V”) zone, and the overall conservation of the Pak Lap area, it was recommended that the representations and comments should be considered by the full Board.

142. As the representations and the related comments from the villagers and green/concern groups and individuals were different, it was suggested that the representations and comments be considered in two groups:

Group 1

- (a) collective hearing of the first group comprising 800 representations (R1 to R798 and R10,736 to R10,737) submitted by the individuals and local villagers of Pak Lap in relation to the insufficient “V” zone on the OZP to satisfy the demand for Small House developments; and

Group 2

- (dd) collective hearing of the second group comprising 9,975 representations (R799 to R10,735 and R10,378 to R10,775) and 3,669 comments (C1 to C3,669), submitted by individuals, Legislative Council and District Council members, environmental and local concern groups and organizations in relation to the excessive “V” zone, the potential environmental problem brought by the proposed Small Houses to the existing stream and Pak Lap Wan, and overall conservation of the area.

143. After deliberation, the Board agreed to the proposed hearing arrangement for the consideration of representations and comments as detailed in paragraphs 3.1 to 3.3 of the Paper.

Agenda Item 14

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

144. The Chairman said that the meeting was the last meeting of the current term (2012-2014) of the Town Planning Board (the Board). The Chairman proposed and Members supported that a vote of thanks be recorded for those retiring Members, namely, Mr Timothy K.W. Ma, Professor Edwin H.W. Chan, Mr Rock C.N. Chen and Mr Maurice W.M. Lee for their contribution to the work of the Board in the past years, and also for the Members to be reappointed for their continuous contribution to the work of the Board in the coming two years.

145. There being no other business, the meeting was closed at 1:50 p.m.