

**Minutes of 1113th Meeting of the
Town Planning Board held on 3.6.2016**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Michael W.L. Wong

Chairman

Professor S.C. Wong

Vice-chairman

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Professor K.C. Chau

Mr Sunny L.K. Ho

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Ms Christina M. Lee

Mr H.F. Leung

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr David Y.T. Lui

Mr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin F. L. Yu

Principal Assistant Secretary (Transport) 3
Transport and Housing Bureau
Miss Winnie M.W. Wong

Deputy Director of Environmental Protection (1)
Mr C.W. Tse

Director of Lands
Ms Bernadette H.H. Linn

Assistant Director (2), Home Affairs Department
Miss Charmaine H.W. Wong

Director of Planning (Atg.)
Ms Phyllis C.M. Li

Deputy Director of Planning/District (Atg.)
Ms Jacinta K.C. Woo

Secretary

Absent with Apologies

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Philip S.L. Kan

Mr T.Y. Ip

In Attendance

Assistant Director of Planning/Board
Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board (Atg.)
Ms Karen F.Y. Wong

Senior Town Planner/Town Planning Board
Ms W.H. Ho

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1112th Meeting held on 20.5.2016

[The item was conducted in Cantonese.]

1. The minutes of the 1112th meeting held on 20.5.2016 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

- (i) Judicial Review Application against the Decision of the Town Planning Board in respect of Application No. A/YL-ST/476 for Proposed Temporary Cross-Boundary Shopping Centre with Ancillary Car Park, Eating Place, Shop and Services (Fast Food Shop), Office and Storage of Consumer Goods for a Period of 3 Years, San Tin, Yuen Long (HCAL 245/2015)

2. The Secretary reported that the following Members had declared interest in the item for having business dealings/affiliation with Henderson Land Development Company Limited (Henderson) and/or Mannings (Asia) Consultants Limited (MCL), the mother company and consultant of Topcycle Development Limited (i.e. applicant of the planning application) respectively:

Mr Ivan C.S. Fu]	having business dealings with Henderson;
Mr Patrick H.T. Lau]	
Ms Janice W.M. Lai]	
Mr Franklin Yu]	
Mr Stephen L.H. Liu]	

- Professor S.C. Wong
(the Vice-chairman) - being the Chair Professor and Head of Department of Civil Engineering of the University of Hong Kong (HKU), which received donation from a family member of the Chairman of Henderson and his Department also received sponsorship from MCL on some activities before;
- having business dealings with MCL;
- Dr Wilton W.T. Fok]
Mr H.F. Leung] being employees of HKU which received donation from a family member of the Chairman of Henderson before;
- Professor K.C. Chau - being an employee of the Chinese University of Hong Kong, which received donation from a family member of the Chairman of Henderson before;
- Dr Lawrence K.C. Li - being Treasurer of the Hong Kong Polytechnic University, which obtained sponsorship from Henderson before;
- Ms Christina M. Lee - being the Secretary-General of the Hong Kong Metropolitan Sports Event Association, which obtained sponsorship from Henderson before;
- Mr Wilson Y.W. Fung - being President of the Hong Kong Business Accountants Association, which obtained sponsorship from Henderson before; and

Mr Peter K.T. Yuen - being a member of the Board of Governors of the Hong Kong Arts Centre, which received donation from an Executive Director of Henderson before.

3. As the item was to report the withdrawal of the judicial review (JR) application, Members agreed that the above Members should be allowed to stay in the meeting. Members also noted that Mr Ivan C.S. Fu and Dr Wilton W.T. Fok had tendered apologies for being unable to attend the meeting and Ms Janice W.M. Lai and Ms Christina M. Lee had not yet arrived at the meeting.

4. The Secretary reported that on 14.12.2015, a JR application (HCAL 245/2015) was lodged by a member of the public (i.e. Shiu Man Bun (蕭文彬), the Applicant) against the decision of the Rural and New Town Planning Committee of the Town Planning Board (the Board) made on 18.9.2015 to approve Application No. A/YL-ST/476 for temporary cross-boundary shopping centre with ancillary car park, eating place, shop and services, office and storage of consumer goods for a period of 3 years in “Other Specified Uses” annotated “Service Stations” zone on the approved San Tin Outline Zoning Plan No. S/YL-ST/8. The Court had not yet granted leave to the JR application.

5. On 24.5.2016, the Applicant applied to the Court for withdrawing the JR application. On 28.5.2016, the Court approved the withdrawal of the JR application.

6. Members noted that the above JR application had been withdrawn.

Kowloon District

Agenda Items 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/K18/313

Proposed School (Kindergarten) in “Residential (Group C) 3” Zone, 3 Flint Road, Kowloon Tong

(TPB Paper No. 10121)

[The items were conducted in Cantonese.]

Declaration of Interests

7. The Secretary reported that the application site (the Site) was located at Kowloon Tong, and Lanbase Surveyors Ltd. (Lanbase) and MVA Hong Kong Ltd. (MVA) were two of the consultants of the applicant. The Chairman and the following Members had declared interests on the item:

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|-------------------------------------------------|---|----------------------------------------------------------------------------------|
| Mr Michael W.L. Wong
(<i>The Chairman</i>) | - | having a family member studying in Kowloon Tong; |
| Mr Patrick H.T. Lau | - | having business dealings with Lanbase and MVA; |
| Mr Dominic K.K. Lam | - | having past business dealings with Lanbase and MVA; |
| Mr Thomas O.S. Ho |] | having business dealings with MVA; |
| Mr Ivan C.S. Fu |] | |
| Mr Franklin Yu | - | having past business dealings with MVA; |
| Ms Christina M. Lee | - | being director of a company which owned properties at Durham Road, Kowloon Tong; |
| | - | her close relative owning a property on Cumberland Road leased to a |

kindergarten;

- Mr David Y.T. Lui - co-owning with spouse a flat in Yau Yat Chuen;
- Ms Janice W.M. Lai - her spouse owning a flat on Earl Street, Kowloon Tong; and
- Dr Lawrence W.C. Poon - living in Kowloon Tong.

8. Since the interest of the Chairman was direct, Members agreed that he should leave the meeting temporarily for the item. The Vice-chairman took up chairmanship of the meeting at this point.

[The Chairman left the meeting temporarily at this point.]

[Ms Janice W.M. Lai arrived to join the meeting at this point.]

9. Members noted that Mr Ivan C.S. Fu had tendered apologies for being unable to attend the meeting and Ms Christina M. Lee had not yet arrived at the meeting. As Mr Patrick H.T. Lau and Mr Thomas O.S. Ho did not have involvement in the application, and the properties of Mr David Y.T. Lui and Ms. Janice W.M. Lai's spouse, and Dr Lawrence W.C. Poon's residence had no direct view of the Site, Members agreed that they should be allowed to stay in the meeting.

Presentation and Question Sessions

10. The following representatives from the Planning Department (PlanD), Transport Department (TD) and Hong Kong Police Force (HKPF), and the applicant's representatives were invited to the meeting at this point:

- Mr Tom C.K. Yip - District Planning Officer/Kowloon (DPO/K), PlanD

Mr C.W. Cheung	-	Engineer/Kowloon City (Engr/KC, TEK), TD
Mr Y.F. Yip	-	Sergeant, District Traffic Team, Kowloon City District (Sergeant, DTT KCDIST), HKPF
Mr Clement K.C. Wong	-	Officer Commanding 2 (Road Management Office) (Enforcement & Control Division) (Traffic Kowloon West) (OC 2, RMO E&C KW), HKPF
Mr C.K. Leung		Station Sergeant, Patrol Sub-unit 3, Kowloon City Division (PSUC 3 KCDIV), HKPF
Mr C.K. Chan]	Applicant's representatives
Mr Roy Cheung]	

11. The Vice-chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/K to brief Members on the review application.

12. With the aid of a PowerPoint presentation, Mr Tom C.K. Yip, DPO/K, presented the review application and covered the following main points as detailed in the Papers:

- (a) on 13.2.2015, the applicant sought planning permission for conversion of the ground floor (G/F) and first floor (1/F) of an existing building at the application site (the Site) for a school (kindergarten) use. The Site fell within an area zoned "Residential (Group C)3" ("R(C)3") on the approved Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/19;
- (b) on 18.12.2015, the Metro Planning Committee (MPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:

- (i) the development was located on Flint Road/Chester Road with narrow width and busy traffic at school peak hours. The applicant failed to demonstrate that the traffic impact of the development on the area was acceptable; and
 - (ii) approval of the application with no on-site transport provision and without adequately addressing the traffic problem would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications would aggravate the traffic congestion problem of the area at school peak hours;
- (c) on 29.1.2016, the applicant applied for a review of the MPC's decision to reject the application. The applicant's justifications in support of the review application were summarised in paragraph 3 of the Paper and would be elaborated by the applicant's representatives;

[Miss Winnie W.M. Ng arrived to join the meeting at this point.]

- (d) the Site and its surroundings – the Site was occupied by an existing building currently used as a kindergarten. The Site was located at the Kowloon Tsai area of Kowloon Tong to the east of Waterloo Road, and bounded by Chester Road, Flint Road and Ho Tung Road in the west, south and east respectively. It was located in a predominant low-rise and low-density residential area. Apart from residential use, the Site was surrounded by non-residential uses including kindergartens, primary schools, secondary schools and churches in the vicinity;
- (e) similar applications – for the “R(C)3” zone, there was only one similar application (No. A/K18/311) for proposed school (kindergarten and nursery) with ancillary staff quarters use to the further north of the Site which was rejected for the reasons that the proposed development was located on Derby Road/Chester Road with narrow width and busy traffic

at school peak hours; the traffic impact of the proposed development was not acceptable; there were uncertainties on the implementability and enforceability of the traffic mitigation measures proposed; and the approval of the application would set an undesirable precedent. For the “R(C)4” zone, there was one similar application (No. A/K18/310) for temporary school (kindergarten) to the further north of the Site, which was approved with conditions on a temporary basis for a period of 2 years and 10 months on special consideration that permission for non-residential uses had previously been granted; there were no trends of proliferation of non-residential uses in the area; and the Commissioner for Transport (C for T) and Commissioner of Police (C of P) did not have technical concerns on the application. However, the MPC emphasized that the application should not be regarded as a precedent for similar applications;

(f) comments from the relevant government departments were detailed in paragraph 5 of the Paper and summarised below:

(i) C for T had no in-principle objection to the s.16 application but had strong reservation on the s.17 review application after further assessment on the kerbside activities for reasons that the footpath at the section of Flint Road outside the Site was very narrow and some pedestrians made use of the carriageway for commuting; vehicles maneuvering and reversing out from the dead end of Flint Road with difficulties; double parking was found on Flint Road and Chester Road during the afternoon peak hours; and the kerbside activities had adversely affected the traffic in the area;

[Mr Dominic K.K. Lam and Mr Sunny L.K. Ho arrived to join the meeting at this point.]

(ii) C of P had reservation on the application as the traffic volume at Kowloon Tong area had already reached the saturation point; the pick-up/drop-off activities by the school would worsen the traffic condition and pose potential risk to road users; and 19 traffic-related

complaints were received in the past year despite daily traffic enforcement efforts had been made;

- (iii) the Secretary for Education advised that the school had been in operation since 2000. The interest of the students should not be affected by the result of the application;
 - (iv) the District Lands Officer/Kowloon East, Lands Department (LandsD) advised that the lot owner would need to apply for lease modification or temporary waiver of the lease restriction for the school use;
 - (v) the Chief Town Planner/Urban Design and Landscape, PlanD had reservation on the application as no tree survey nor tree treatment proposal was submitted and there was no landscape provision for the campus; and
 - (vi) other departments had no objection to or adverse comment on the review application;
- (g) public comments – seven adverse public comments (including one from a Kowloon City District Council (KCDC) member) on the review application were received, all objecting on the grounds that the schools and kindergartens had created adverse traffic impact during the school peak hours; the traffic impact assessment (TIA) underestimated the traffic impact of the proposed kindergarten; students were forced to walk on the road due to illegal parking; school establishment should be avoided at inconvenient locations with insufficient road space for traffic and pedestrians; and the proliferation of education facilities in Kowloon Tong was disproportionate to local demand;
- (h) PlanD's views - PlanD did not support the review applications based on the planning considerations and assessments set out in paragraph 7 of the Papers, which were summarised below:

- (i) no additional proposals/traffic mitigation measures had been proposed at the s.17 review stage to address MPC's rejection reasons;
- (ii) the proposed use was not in line with the planning intention of the "R(C)3" zone, which was primarily for low to medium rise, low-density residential development. To the east of Waterloo Road, only one similar application (No. A/K18/310) for kindergarten in the "R(C)4" zone was approved on a temporary basis in view of its unique circumstances. Another similar application (No. A/K18/311) in the "R(C)3" zone to the north of the Site was rejected. The traffic congestion and nuisances caused by infiltration of non-residential uses in the residential neighbourhood had been the subject of concerns of the locals and KCDC;
- (iii) the applicant had not proposed any on-site car parking and loading/unloading facilities nor any traffic mitigation measures to support the kindergarten use. On-street pick-up/drop-off of students were to be carried out along the kerbside of Chester Road, which the applicant's traffic consultant claimed to have spare capacity even during school peak hours. However, C for T and C of P had strong reservation/reservation on the application; and
- (iv) approval of the application would set an undesirable precedent and lead to adverse cumulative impacts.

13. The Vice-chairman then invited the applicant's representatives to elaborate on the review application. With the aid of a document tabled at the meeting and shown in the visualizer, Mr C.K. Chan made the following main points:

- (a) the applicant did not submit any proposal on transport arrangement as TD had no in-principle objection to the application at the s.16 planning application stage. He only realized TD's objection to the proposal at the

s.17 review stage lately, and had the following responses:

- (i) *impact on pedestrian flow*: despite that Flint Road had narrow footpaths, the pedestrian volume there was very low. The southern footpath of Flint Road abutted on the back of Maryknoll Convent School which had no entrance and pedestrian traffic. The northern footpath had very low pedestrian traffic and could operate at a good level of service. The vehicular traffic at Flint Road was also very low (22 vehicles during the morning peak hour and 6 vehicles in other peak hours), and no conflict between vehicular traffic and pedestrian flow was observed;
- (ii) *dead end road*: despite that Flint Road was a dead end road, vehicles could turn around at its terminating point rather than reversing out from the dead end. It was the motorists' responsibility to drive safely and should not be a reason to reject the application;

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

- (iii) *kerbside activities*: kerbside pick-up/drop-off of students of the subject kindergarten was carried out mainly along Chester Road west of the Site, rather than Flint Road. Chester Road had a width of about 9.8m excluding layby and could allow traffic movements even with on-street parking along it. Besides, the school offered school bus service and had staggered the pick-up/drop-off time for students taking school buses and private cars so as to reduce traffic congestion; and
- (b) in response to the comments of C of P, the kindergarten had been in operation since 2000 and the student intake as permitted by EDB would not increase. Therefore, the traffic and kerbside activities related to the school would not increase as compared to the current situation. Based on the kerbside utilisation survey, there was marginal spare kerbside capacity available even during school peak periods and the kerbside

activities would not adversely affect the traffic flow in the area.

14. As the presentation of PlanD's representative and the applicant's representative had been completed, the Vice-chairman invited questions from Members.

Traffic Impact

15. Noting that the kindergarten at the Site had been in operation for years and there would not be any increase in the student enrolment, a Member asked whether the traffic condition along Flint Road and Chester Road adjoining the Site was unacceptable at the moment or would become unacceptable in the future for certain reasons. Mr C.W. Cheung, Engr/KC, TEK, TD said that the traffic along Flint Road and Chester Road was busy during the school peak hours and double parking was observed along both roads. Mr Y.F. Yip, Sergeant, DTT KCDIST, HKPF said the traffic problem could be reflected from the number of complaints received by HKPF against illegal parking and obstruction of road users at Flint Road, Chester Road and Lancashire Road which was 24 during the period between 1.1.2016 and 31.5.2016. Mr Tom C.K. Yip, DPO/K supplemented that the public complaints received by HKPF and the frequent occurrence of double-parking along the two roads illustrated that the existing traffic condition in the locality of the Site was not satisfactory.

16. The same Member asked whether the kindergarten at the Site would cause traffic impact on the local road network as Flint Road and Chester Road were serving only adjoining developments. In response, Mr Tom Yip said that the vehicular access from Flint Road to Chester Road was the only access for the development clusters between Waterloo Road and Ho Tung Road, including residential developments, Christ Church, Diocesan Preparatory School and Christ Church kindergarten. The public comments in respect of the application were submitted by the local residents expressing their concern on traffic conditions in the vicinity of the Site.

17. Some Members asked whether there was further breakdown of the complaint figure to illustrate whether they were related to the subject kindergarten or other developments in the area, and whether HKPF would allow for drop-off/pick-up of students during the school peak hours. In response, Mr Y.F. Yip said that apart from the timing of the complaints lodged which indicated that out of the 24 complaints, the earliest complaint

was lodged at 7:00am and two latest complaints lodged after 5:00pm, he did not have further breakdown of the complaint figure at hand. Kerbside drop-off/pick-up of students would be tolerated to a certain extent during the school peak hours.

18. Mr C.K. Chan, applicant's representative, said that the complaints received by HKPF might not be related to the operation of the kindergarten. According to the on-site survey conducted by the traffic consultants, the drop-off time of school buses in the morning was 8:36am–9:06am (11 out of 13 school buses drop-off between 8:45am–9:00am), and the pick-up time for the morning session and whole day session of the kindergarten were 11:49am–11:58am and 2:51pm–3:08pm respectively.

19. In response to a Member's question on the traffic impact generated by the kindergarten, Mr C.K. Chan said that a TIA was already conducted at the s.16 stage which concluded that the subject kindergarten would not have adverse traffic impact on the surrounding area. TD had no in-principle objection to the application then. TD's reservation on the application at the current s.17 stage was based on their latest observation rather than traffic impact assessment.

20. In response to the Vice-chairman's question, Mr C.W. Cheung said that TD's main concern was whether there was sufficient kerbside capacity for the pick-up/drop-off activities by school buses and private cars related to the kindergarten during school peak hours, and whether such activities would obstruct road users and thus create adverse traffic impact. As such, TD requested for an assessment of kerbside capacity for such activities at the s.16 stage. Having reviewed the applicant's submission and noting that double parking on Flint Road and Chester Road during the peak hours was found, and the kerbside activities had adversely affected the traffic flow along those roads, TD had reservation on the application.

Kerbside Activities

21. In response to a Member's question, Mr C.K. Chan said that TD's concern was related to the kerbside activities rather than traffic impact generated by the kindergarten. Mr Tom Yip said that the kerbside assessment under the TIA conducted by the applicant had taken into account the number of cars generated and the length of possible on-street parking

area along Flint Road and Chester Road, and concluded that marginal spare kerbside capacity was available during school peak periods. However, after reviewing the applicant's assessment and the existing double parking situation, TD and HKPF had reservation on the application as the on-street drop-off/pick-up activities of students had adversely affected the traffic flow in the nearby areas. Mr Tom Yip supplemented that the main concern for kindergarten use in Kowloon Tong area was the obstruction to road users and traffic flow arising from their kerbside drop-off/pick-up of students.

22. In response to the Vice-chairman's question on proportion of students using school bus service, Mr C.K. Chan said that there were 13 school buses serving the kindergarten which were fully occupied and most of the students used the school bus service. Mr Tom Yip pointed out that according to the applicant's TIA, about 63%-70% of the students were using the school bus service with the remaining students travelling by private car/taxi/public transport.

23. A Member asked how the traffic condition in the area could be improved if the kindergarten ceased operation. Mr C.W. Cheung said that the 13 school buses serving the kindergarten and other traffic demands such as private car or taxi carrying students/parents/staff to or from the kindergarten would no longer exist if the kindergarten ceased operation.

24. Given a number of educational facilities were located in the surrounding area, a Member asked whether the traffic congestion was mainly created by the operation of those schools, rather than the subject kindergarten. Mr Tom Yip said that the existing schools fell within areas zoned "Government, Institution or Community" ("G/IC") on the OZP, which should already be taken into account in the planning of the transport network and supporting infrastructures in the area. The school use in the current application was, however, located in the "R(C)3" zone which was primarily intended for low to medium rise, low-density residential development. As such, the applicant should demonstrate that the proposed use would not create adverse impacts, including traffic impact, on the surrounding area. Mr Tom Yip also said that according to the TIA submitted by the applicant, the kerbside activities along the two concerned roads during the peak hours were mainly school related and the subject kindergarten accounted for about one-third of the total kerbside activities.

25. In response to a Member's enquiry, Mr C.K. Chan said that no complaint on the safety of the kerbside drop-off/pick-up of students was received.

Dead End Road

26. In response to a Member's question, Mr Tom Yip said that the kindergarten had two entrances, one at Flint Road and the other at Chester Road. Although the applicant claimed that school buses could utilize both roads to drop off/pick up students, the section of Flint Road outside the Site was narrow and its eastern end was a dead end. The school bus had difficulties to reverse out from the road, especially when there was roadside parking.

27. Noting that road pillars were used to block the traffic to create the dead end of Flint Road, a Member asked whether the road pillars could be removed to allow through traffic from Flint Road to Ho Tung Road to improve the traffic condition. Mr C.W. Cheung said that if through traffic from Flint Road to Ho Tung Road was allowed, a standard road junction would be required but there was no spare space on site to form a standard road junction. The section of Flint Road and Ho Tung Road beyond the road pillars were currently used as footpath.

Kindergarten Use

28. In response to a Member's question, Mr Tom Yip said that the subject kindergarten had been in operation since 2000 and no previous planning application for 'school' use at the Site had been received.

29. A Member asked (i) how many students would be affected if the application was rejected; and (ii) whether comments from the Labour and Welfare Bureau (LWB) regarding the demand of kindergarten and nursery had been sought. Mr Tom Yip said that the proposed number of students for the kindergarten was 190, which was the same as that permitted by Education Bureau (EDB) under the Certificate of Accommodation. As for the impact on the current students, if the review application was not approved, the LandsD would undertake enforcement action under lease. LandsD had already informed EDB of the possibility and EDB subsequently requested the applicant to work out a contingency plan under such scenario. Nevertheless, there was a consensus among the government

departments on the need to minimize impact on the existing students of the kindergarten. With respect to the appropriate government departments consulted, Mr Tom Yip said that kindergarten and nursery were under the purview of EDB and LWB respectively. As the subject application was for kindergarten use, only EDB's comment had been sought.

30. A Member asked whether there was information on where the students of the kindergarten were residing. In response, Mr C.K. Chan said that he did not have such information at hand.

Similar Application

31. In response to two Members' questions, Mr Tom Yip said that there was one similar application (No. A/K8/311) for proposed school (a kindergarten and nursery) with ancillary staff quarters use located in the same residential cluster to the further north of the Site. To address the possible traffic impact, the applicant had put forward mitigation measures including (1) provision of parking spaces for school bus and taxi in the basement of the campus for drop-off/pick-up of students; (2) staggered school hours to avoid overlapping with those of other nearby schools; (3) 'school bus only' policy to avoid the use of private car and taxi for drop-off/pick up of students. Even with such traffic mitigation measures, the application was rejected by the Board on review on 11.9.2015 on the grounds, among others, that there were uncertainties on the implementability and enforceability of the proposed measures, and it had not been demonstrated that the traffic impact of the proposed development on the area was acceptable. In response to a Member's question, Mr Tom Yip said that the application was for a proposed new kindergarten and nursery.

32. In response to another Member's enquiry, Mr Tom Yip said that there was another application related to the temporary use of a nearby school playground for weekend parking for a Church rather than for school use.

33. As Members had no further question, the Vice-chairman informed the applicant's representatives that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Vice-chairman thanked the applicant's representatives and government representatives for attending the meeting. They left the

meeting at this point.

Deliberation Session

34. A Member said that Flint Road and Chester Road were local roads serving only the development clusters in the vicinity of the Site, it was unlikely that the kindergarten would result in significant traffic impact on the nearby main roads. As they were one-way roads and the departing traffic from the three residential developments to the north of the Site should be heading north and would not pass through the Site, and the school peak periods would not overlap with the morning and evening commuting time of the local residents, the traffic impact created by the kindergarten on the local residents would unlikely be substantial. As for the road users gaining access to the nearby schools, they would also generate kerbside activities in the locality. He considered that the inconvenience to the road users raised in the public comments was not justified.

35. A Member said that Kowloon Tong had a number of kindergartens and schools which had aggravated the traffic condition in the area over the years. It was appropriate for the Board to adopt a more cautious approach in considering applications for kindergarten/school use in the area. Applications for new kindergarten should only be considered favourably if there were provision of mitigation measures, such as on-site transport facilities for the drop-off/pick-up of students and staggered school hours, and no adverse traffic impact on the surrounding area would be resulted. For the subject application, since the applicant failed to demonstrate that the traffic impact of the proposed development was acceptable, there was no on-site transport provision to address the traffic problem and the adverse impacts of the kerbside parking and drop-off/pick-up activities generated, the Member did not support the application. Three Members concurred with the views of the Member.

36. Some Members considered that a similar application in the same development cluster was rejected by the Board even though on-site transport facilities and other mitigation measures had been proposed. The approval of the subject application, which had no such measures, would set an undesirable precedent. The applicant's claim that approval of the kindergarten would not aggravate the existing traffic congestion problem in the locality was not relevant as the existing problem was partly due to the operation of the subject

kindergarten. Given the section of Chester Road adjoining the Site was a bottleneck, any obstruction would not only cause inconvenience to the local residents, but also had fire safety implication.

37. A Member was concerned that as the kindergarten had been in operation for years, rejection of the application would affect the existing students. Owing to the physical constraint of the Site, it would seem not feasible to provide on-site transport facilities. The Member considered that the application could warrant sympathetic consideration. Given that there were a number of planning applications in the area, LWB should be consulted on the demand of kindergarten/nursery.

38. In response to a Member's question, Ms Phyllis C.M. Li, Director of Planning (Atg.) said that Kowloon Tong had been a popular area for kindergartens/nurseries attracting students from other districts. The traffic induced by those kindergartens had created adverse impact on the district over the years which was the main local concern. On that basis, a Town Planning Board Guidelines No. 23 (TPB PG-No. 23) for Application for Kindergarten/Child Care Centre (CCC) in Kowloon Tong Garden Estate (KTGE) under Section 16 of the Town Planning Ordinance was promulgated in 2001, and revised in 2011 (TPB PG-No. 23A), with a view to setting out the planning criteria for assessing such planning applications. According to TPB PG-No. 23A, new proposal for kindergarten/CCC should be supported by a TIA to examine any possible traffic problems and if required, proposed mitigation measures to tackle the problems. Since the promulgation of the revised guidelines in 2011, only two planning applications in the KTGE area to the west of Waterloo Road were approved on temporary basis due to their unique circumstances. Although the subject application was not located in KTGE, the planning considerations for kindergarten use in Kowloon Tong area were still applicable. It should be noted that the applicant had not provided mitigation measures to tackle the traffic problems and TD and HKPF had reservation on the application.

39. A Member said that the applicant had not provided sufficient information to address TD's concern on kerbside capacity. Another Member had concern on the safety of the students as they needed to cross Chester Road to the subject kindergarten after getting off from the school buses.

40. Two Members said that the “R(C)3” zone was primarily intended for residential use, and its location was intended to be separated from the “G/IC” cluster. Any proposed change in the planning intention of the zone should be supported by strong justifications with demonstration of no adverse impact, including traffic impact, on the surrounding area.

41. In response to a Member’s question, Ms Li said that planning standards for provision of kindergarten and nursery based on population and age profile were stipulated in the Hong Kong Planning Standards and Guidelines. The need for such establishments would be taken into account in the planning of new development areas, public housing estates and large-scale private development projects. The concentration of kindergartens in Kowloon Tong had its own historical reasons and was not necessarily related to local demand.

42. Members generally agreed that the applicant had not demonstrated that the traffic impact of the kindergarten on the area was acceptable. After deliberation, the Board decided to reject the application on review based on the following reasons:

- “(a) the development is not in line with the planning intention of the “Residential (Group C) 3” zone, that is for low to medium-rise, low-density residential developments;
- (b) the development is located at Flint Road/Chester Road with narrow width and busy traffic at school peak hours. The applicant fails to demonstrate that the traffic impact of the development on the area is acceptable; and
- (c) approval of the application with no on-site transport provision and without adequately addressing the traffic problem will set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications will aggravate the traffic congestion problem of the area at school peak hours.”

[Professor S.C. Wong, Professor K.C. Chau, Mr Thomas O.S. Ho and Mr C.W. Tse left the meeting at this point.]

[The Chairman returned to join the meeting at this point. Ms Christina M. Lee and Mr

Frankie W.C. Yeung arrived to join the meeting at this point.]

Sai Kung & Islands District

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/SK-CWBN/38

Proposed Filling of Land and Excavation of Land for Permitted Agricultural Use with Ancillary Agricultural Sheds and Emergency Vehicular Access in “Green Belt” Zone, Lots 72 RP (Part), 73 (Part), 75 (Part), 76 (Part), 78 (Part), 79 (Part) and 80 RP (Part) in D.D. 229 and Adjoining Government Land, Clear Water Bay Road, Sai Kung (TPB Paper No. 10120)

[The item was conducted in Cantonese.]

Declaration of Interests

43. The Secretary reported that the following Members had declared interests on the item for having business dealings with Kenneth Ng & Associates Ltd. (KNA) and co-operation with Mr Kenneth Ng (the consultant of the applicant), and having properties in the Clearwater Bay area:

- | | | |
|----------------------|---|----------------------------------------------------------------------------------------------------------------|
| Ms Janice W.M. Lai | - | having business dealings with KNA; |
| Mr Patrick H. T. Lau | - | being the Director of Association of Landscape Consultants, for which Mr Kenneth Ng was also the Director; and |
| Mr David Y.T. Lui | - | co-owning with spouse 2 houses in Clearwater Bay area. |

44. As Ms Janice W.M. Lai and Mr. Patrick H. T. Lau had no involvement in the application, and Mr David Y.T. Lui's properties had no direct view of the site, Members

agreed that they should be allowed to stay in the meeting.

Presentation and Question Sessions

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

Ms Donna Y.P. Tam	-	District Planning Officer/Sai Kung & Islands (DPO/SKIs), PlanD
Mr Rupert Law]	Applicant's representatives
Mr Eric Chiu]	
Mr Alnwick C. H. Chan]	
Miss Chillie So]	
Mr Kenneth Ng]	

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

47. With the aid of a PowerPoint presentation, Ms Donna Y.P. Tam, DPO/SKIs, presented the review application and covered the following main points as detailed in the Paper:

- (a) on 4.6.2015, the applicant sought planning permission for land filling and land excavation at the application site (the Site) for permitted agricultural uses with ancillary agricultural sheds and Emergency Vehicular Access (EVA). The Site fell within an area zoned "Green Belt" ("GB") on the approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP) No. S/SK-CWBN/6;
- (b) on 17.7.2015, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:

- (i) the proposed development did not comply with the Town Planning Board Guidelines for Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) in that the proposed development would involve extensive clearance of existing natural vegetation and might cause adverse visual and landscape impacts on the surrounding environment. The applicant failed to demonstrate that the proposed development would not cause adverse landscape impact on the surrounding areas; and
 - (ii) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the environment and bring about adverse landscape impact on the area;
- (c) on 27.8.2015, the applicant applied for a review of the RNTPC’s decision to reject the application. The applicant’s justifications in support of the review application were summarised in paragraph 3 of the Paper and would be elaborated by the applicant’s representatives;
- (d) the Site and its surroundings – the Site comprised a piece of largely flat area (at level about 125mPD) mainly covered with trees and shrubs and surrounded by well vegetated slopes between Clear Water Bay Road (at level about 130mPD) to its west and an extended access road branching off from Clear Water Bay Road to its south. Area to its immediate north was a turfed area with shrubs. A plant nursery (Bluet Garden) and an area zoned “Comprehensive Development Area (1)” (“CDA(1)”) for residential and commercial development (under construction) were located to the further north. A 3-storey house (i.e. zoned “Residential (Group C) 4”) was located to its immediate south and the Clear Water Bay School (primary school) served by a vehicular access branching off from Ngan Ying Road was located to its north-east;

- (e) previous and similar applications - the Site was the subject of two previous planning applications submitted by the same applicant. Application No. A/SK-CWBN/13 for proposed holiday camp and filling of land was rejected by the RNTPC on 10.9.2010. Application No. A/SK-CWBN/19 for proposed holiday camp, education centre and filling of land was rejected by the Board upon review on 25.5.2012. There was no similar application within the same “GB” zone on the OZP;
- (f) departmental comments – the Chief Town Planner/Urban Design and Landscape, PlanD had reservation on the application mainly for reasons that the proposed EVA was bulky and not compatible with the surrounding landscape context; the construction of the EVA might cause extensive vegetation clearance within and beyond the Site; an existing stream adjoining the EVA would be affected; area for plant growth would be reduced; and the location of the two sheds were close to the existing vegetated slope and might cause adverse impact on the surrounding wooded vegetation. Besides, the proposed landscaping and tree preservation measures could not fully mitigate the potential adverse landscape impact on the surrounding environment;
- (g) public comments – sixteen public comments were received, all objecting to the review application mainly on grounds that the proposed development was incompatible with the planning intention of the “GB” zone; possible adverse landscape, environmental and ecological impacts; and no justification had been provided by the applicant on the necessity of an EVA serving the two agricultural sheds;
- (h) PlanD’s views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
 - (i) the proposed excavation/land filling works involved substantial clearance of existing vegetation and would likely involve works

beyond the Site boundary. Tree felling beyond the Site boundary was anticipated (i.e. 12 out of 33 trees to be felled were outside Site boundary);

- (ii) the proposed landscaping and tree preservation measures could not fully mitigate the potential adverse landscape impact within the “GB” zone as there was no proper tree preservation measures, some planting areas had already been covered by dense vegetation and the proposed green wall might not be practical for maintenance and could not substitute for the existing wooded buffer;
- (iii) the proposed elevated access road/EVA was a massive structure not compatible with the surrounding landscape context and the proposed landscaping measures could not fully mitigate the bulky elevated road structure. The applicant had not provided strong justification to demonstrate that the proposed access/EVA was the only viable option and failed to provide any justification for using government land for a private project;

[Dr Lawrence K.C. Li left the meeting at this point.]

- (iv) the proposed works/development did not comply with the TPB-PG No. 10 in that clearance of natural vegetation within and outside the Site were involved and adverse landscape impacts on the “GB” zone was anticipated; and
- (v) approval of the application would set an undesirable precedent for similar applications within the “GB” zone and the cumulative effect would result in a general degradation of the natural environment and brought about adverse landscape impact on the area.

48. The Chairman then invited the applicant’s representatives to elaborate on the review application. With the aid of a plan shown on the visualizer, Mr Alnwick C.H. Chan made the following main points:

- (a) the subject application was mainly for constructing an EVA in “GB” zone to support the operation of a farm on private land in the same “GB” zone. Although the Site stated in the application was only 1,085m² in area, the applicant intended to include his land around the Site to develop a farm (plant nursery) with an ultimate size of 5,000 – 11,000m². The proposed farm use was always permitted in the “GB” zone and therefore had not been included in the application. The EVA was required to support the modern operation of the farm;

- (b) as the applicant’s land did not abut on any road and was mostly surrounded by government land, any proposed EVA would need to pass through government land. Clear Water Bay Road was a busy road and it was not desirable to form a direct road access from there. An alternative EVA from the right of way (ROW) for Clearwater Bay School, which had an entrance gate for vehicles, was considered not desirable as it might disturb the School. As such, the most viable option for the EVA was from the existing access road to the south of the Site. The length and alignment of the EVA were dictated by the 5-8m level differences between the access road and the Site. The EVA would lead to the proposed sheds of the farm which would be used for green house and storage of farming equipment. As the farm would not be opened to the public, the estimated daily traffic flow at the proposed EVA would be low (for the use of about 20 staff and 7 goods vehicles);

- (c) given that the Site was covered by vegetation, felling of trees would be unavoidable for the construction of the EVA. According to the tree survey, majority of the existing trees were in low to medium quality/health condition and none of the trees was identified as rare, endangered or protected species in Hong Kong. Efforts had been made to minimize the number of trees to be felled and the affected trees would be compensated in accordance with relevant guidelines. Besides, areas to the north of the Site would be used for plant nursery which could enrich the greening and landscape quality of the area;

- (d) the proposed development would not cause adverse visual impact on the surrounding environment. The EVA was descending from the access road and would be shielded by roadside planting and green wall. The height of the proposed sheds was at about the same level as the existing level of Clear Water Bay Road. The dimension of the sheds could be further reduced if necessary; and
- (e) on the concern that high proportion of the Site (about 30%) was government land, the ultimate size of the farm was about 5,000-11,000m², not 1,085m² under the current application. As such, the proportion of government land involved was not substantial. Involvement of government land for private development would be subject to the approval from Lands Department.

49. As the presentation of PlanD's representative and the applicant's representative had been completed, the Chairman invited questions from Members.

Access to the Site

50. In response to a Member's question on how the previous tenant got access to the Site, Mr Alnwick C.H. Chan, the applicant's representative said that the previous tenant was Bluet Garden who had operated a plant nursery on their own land together with the land rented from the applicant including the Site. They could get access to the applicant's land from Clear Water Bay Road via their own land. As Bluet Garden was no longer the tenant, the applicant could not get access to the Site via Bluet Garden's land.

51. In response to the Chairman's question, Mr Chan said that the farm would not be feasible without a road access. Ms Bernadette H.H. Linn, Director of Lands asked if the proposed EVA was not approved, how could the Site be accessible. Mr Chan said that the Site could only be accessible via a staircase at Clearwater Bay School's ROW. Ms Donna Y.P. Tam, DPO/SKIs supplemented that the staircase was for pedestrian descended from the ROW of Clearwater Bay School. The applicant's land and the Site were accessible by vehicles via the tracks near Bluet Garden, which was operating on government land under a short-term tenancy. Some sections of the tracks might pass through some private lots not

owned by the applicant and might not be a proper vehicular access.

52. In response to a Member's question on whether the EVA could be provided without encroaching upon government land, Mr Chan said that given the Site was surrounded by government land and the gradient constraint, it was impossible to construct the EVA without involving government land. However, the design of the EVA could be further reviewed to minimize encroachment onto the government land.

Proposed Sheds and Farm

53. The Chairman noted that there had been previous applications for holiday camp at the Site and its surrounding land and asked whether the applicant had changed his plan. He also asked about the details of the proposed farm with an area of about 11,000m². Mr Chan said that since the previous applications had been rejected, the applicant had not pursued the holiday camp proposal. On the details of the uses for the proposed farm, Mr Rupert Law, the applicant's representative said that it would mainly be used as plant nursery to supply flowers and herbs to their hotel in Sai Kung and trees for their development projects. He also said that the previous tenant was not growing native species which could not support local birds, butterflies and insects. The applicant was a charity company and their proposed farm was aimed at restoring the original environment of the Site by planting more native species, rather than striving for economic return.

54. In response to a Member's question, Mr Chan said that the sheds would be used as green house and storage of farming equipment and fertilizers. Mr Law said that the farm would be developed to its ultimate size by phases.

55. In response to Ms Linn's question on the extent of the proposed farm, Mr Chan, making reference to Plan R-2b of the Paper, said that the proposed farm would be roughly the same as the proposed holiday camp under the previous application No. A/SK-CWBN/19. The whole farm was not included in the application as it was always permitted in the "GB" zone. With the aid of a plan shown on Powerpoint, Ms Tam showed Members the land owned by the applicant, which was mainly located to the south of Bluet Garden.

56. In response to a Member's question, Ms Tam said that according to the advice of the Agriculture, Fisheries and Conservation Department, a licence would be required for the erection of agricultural structures at the Site and the applicant had not yet obtained the licence. Mr Chan supplemented that they would apply for approvals from relevant government departments should the subject application be approved.

57. In response to a Member's question, Mr Chan said that the development of the New World Development Company Limited was about 500m away from the Site.

Tree Compensation

58. A Member said that according to the landscape master plan (LMP) submitted by the applicant, 15 out of the 18 tree species proposed to be felled were native species. In the compensatory planting proposal, however, only 3 tree species would be planted and only 2 were native species. In response, Mr Kenneth Ng, the applicant's representative said that not many native species could be purchased in the commercial sector. However, if the subject application were approved, more native species could be included in the compensatory planting through the compliance of approval condition. The same Member said that native species could be purchased from the commercial market but at a higher price.

59. In response to the same Member's question, Mr Ng clarified that the unit for trunk diameter in the tree schedule at Appendix C of the LMP should be 'meter' instead of 'millimeter'.

60. As Members had no further question, the Chairman informed the applicant's representatives that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and PlanD's representative for attending the meeting. They left the meeting at this point.

Deliberation Session

61. The meeting noted that the subject application had been rejected by the RNTPC

on the grounds that the proposed development did not comply with TPB PG-No. 10 in that the proposed development would involve extensive clearance of existing natural vegetation, and the approval of the application would set an undesirable precedent. As regards the current review application, PlanD also pointed out that the applicant had not demonstrated that the proposed EVA was the only viable option.

62. A Member said that according to the tree survey submitted by the applicant, the Site was a natural forest with native species. However, the tree compensation proposal could not compensate the loss satisfactorily. Besides, the section of the EVA near the ingress/egress point fell entirely within government land. The Member did not support the application.

63. Some Members said that the applicant had not provided strong justifications to demonstrate the scale of the EVA was proportional to the proposed agricultural use. The proposed development might affect the traffic condition in the area, and the proposed EVA had visual impact on the area. It was doubtful that the Site and the surrounding land would eventually be used for agricultural purpose with the provision of the EVA.

64. In response to the Chairman's question, Ms Bernadette H.H. Linn said that if an application for granting government land for the provision of EVA was received, it was likely that LandsD would give weight on the views of the Board in coming to LandsD's own decision on the matter.

65. A Member said that an EVA of such a scale could support a substantial development which might not be in line with the principle of a general presumption against development within the "GB" zone. In response, the Chairman clarified that the current application was applying for land filling and land excavation mainly for the EVA while agricultural use was always permitted.

66. A Member said that the applicant had not provided sufficient justifications to address RNTPC's concern on the extensive clearance of existing natural vegetation and the adverse visual and landscape impacts caused by the proposed development. Besides, the applicant's claim that the proportion of the EVA was not substantial as compared with the ultimate size of the farm was not convincing as the size of the farm was hypothetical and was

not included in the application.

67. Members generally agreed that the applicant had failed to provide strong justifications to address RNTPC's concern. The proposed development did not comply with TPB PG-No. 10 in that the proposed development would involve extensive clearance of existing natural vegetation and might cause adverse landscape impact on the surrounding environment. Besides, the approval of the application would set an undesirable precedent for similar applications within the "GB" zone.

68. After deliberation, the Board decided to reject the application on review for the following reasons:

- “(a) the proposed development does not comply with the Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) in that the proposed development would involve extensive clearance of existing natural vegetation and may cause adverse landscape impact on the surrounding environment. The applicant fails to demonstrate that the proposed development would not cause adverse landscape impact on the surrounding areas; and
- (b) approval of this application would set an undesirable precedent for similar applications within the “Green Belt” zone. The cumulative effect of approving such similar proposals would result in a general degradation of the environment and bring about adverse landscape impact on the area.”

[Dr Lawrence W.C. Poon left the meeting at this point.]

Tuen Mun & Yuen Long West District

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-TT/357

Temporary Shop and Services (Environmental Consultancy and Landscaping Services) for a Period of 3 Years in “Village Type Development” Zone, Lots 4891 RP (Part), 4892 RP (Part), 4893 (Part) and 4894 in D.D. 116 and Adjoining Government Land, Tai Tong Road, Yuen Long
(TPB Paper No. 10109)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

69. The Secretary reported that further information (FI) from the applicant in support of the review application was received on 1.6.2016. The FI had been tabled at the meeting for Members’ reference.

70. The following representative from the Planning Department (PlanD) and the applicant were invited to the meeting at this point:

Mr David C.M. Lam - District Planning Officer/Tuen Mun & Yuen Long
West (DPO/TM&YLW), PlanD

Mr Lam Sun Tak - Applicant

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

72. With the aid of a PowerPoint presentation, Mr David C.M. Lam, DPO/TM&YLW, presented the review application and covered the following main points as detailed in the Paper:

- (a) on 21.8.2015, the applicant sought planning permission for proposed temporary shop and services (environmental consultancy and landscaping services) for a period of 3 years. The application site (the Site) fell within an area zoned “Village Type Development” (“V”) on the approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16;

- (b) on 9.10.2015, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
 - (i) the applicant failed to demonstrate that the development would not cause adverse traffic, landscape and drainage impacts on the surrounding area; and
 - (ii) previous planning permissions granted to the applicant under Applications No. A/YL-TT/289 and 302 were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism;
- (c) on 9.11.2015, the applicant applied for a review of the RNTPC's decision to reject the application. The applicant also submitted FI on 1.6.2016 which was tabled at the meeting. It was noted that most of the correspondences between the applicant and the Highways Department (HyD) in 2016 as attached in the FI were related to the adjoining site. The applicant's justifications in support of the review application were summarised in paragraph 3 of the Paper and would be elaborated by the applicant;
- (d) the Site and its surroundings – the Site was fenced off and currently occupied by vacant structures. It was accessible from Tai Tong Road to its west via a strip of government land. The surrounding areas comprised predominantly residential dwellings, car parks, a few open storage/storage yards, workshop, warehouses, a kindergarten, real estate agencies, cultivated/fallow agricultural land and vacant/unused land. There were two real estate agencies located to the immediate north and to the west of the Site across Tai Tong Road in the adjacent “V” zone

respectively. Both were operated with valid planning permissions;

- (e) previous applications - the Site was the subject of 4 previous applications (No. A/YL-TT/289, 302, 327 and 344) for temporary shop and services (real estate agency) use submitted by the same applicant. Applications No. A/YL-TT/289 and 302 were approved with conditions for a period of 3 years by the RNTPC, but both planning permissions were revoked subsequently due to non-compliance with associated approval conditions. Applications No. A/YL-TT/327 and 344 were rejected by the Board. On 23.12.2014, the applicant lodged an appeal against the Board's decision to reject application No. A/YL-TT/327 on review. The appeal was allowed by the Town Planning Appeal Board (TPAB) on 22.12.2015 with a planning permission granted for a period of 12 months until 22.12.2016, instead of 3 years applied, with approval conditions. However, the planning permission allowed under appeal was revoked on 22.3.2016 due to non-compliance with approval conditions on the parking, run-in/out and landscaping aspects;

[Mr H.F. Leung left the meeting at this point.]

- (f) similar applications – two similar applications (No. A/YL-TT/301 and 343) for temporary shop and services (real estate agency) covering the adjoining site to the north and submitted by the same applicant were approved with conditions for a period of 3 years on 20.4.2012 and 16.1.2015 respectively. Planning permission for application No. A/YL-TT/301 was revoked on 20.7.2014 due to non-compliance with approval conditions. In view of the previous revocation, shorter compliance periods were imposed on application No. A/YL-TT/343 so as to monitor the progress on compliance with approval conditions;
- (g) departmental comments – Commissioner for Transport (C for T) advised that the applicant was required to submit the details of the internal driveway to demonstrate that sufficient space would be provided within the site for vehicle manoeuvring, and provide adequate demarcation to

delineate the car parking spaces. Should the application be approved, approval conditions on the submission and implementation of parking arrangement should be imposed. The Chief Engineer/Mainland North, Drainage Services Department (DSD) required the submission, implementation and maintenance of the revised drainage proposal, should the application be approved. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD had reservation on the application as noticeable disturbance to the existing landscape resources had been caused prior to the application and the landscape proposal submitted by the applicant was inadequate to compensate the affected landscape resources. Approval of the application might set an undesirable precedent of encouraging applicants to clear and develop the sites before approval was given;

- (h) public comments – four public comments were received, all objecting to the review application mainly on the grounds that the development would worsen the security of the area, intensify flooding in the area and hence affect the living environment of the nearby residents;
- (i) PlanD's views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper, which were summarised below:
 - (i) all the previous planning permissions for applications submitted by the same applicant, including application No. A/YL-TT/327 allowed by the TPAB, were revoked due to non-compliance with approval conditions on the traffic, run-in/out, drainage, landscaping and/or fire safety aspects;
 - (ii) the applicant argued that insufficient time was allowed for him to fulfil the conditions of the previous planning permission (No. A/YL-TT/327). Despite three months had been allowed for complying with the approval conditions, the applicant only made submissions to fulfil the relevant approval conditions one day

before the prescribed deadline. If the applicant required more time for complying with the approval conditions, he could submit s.16A application for extending the compliance deadline. In fact, the applicant had previously submitted a total of 20 similar s.16A applications for extending the deadlines for compliance of approval conditions in connection with the earlier previous application at the Site and two other similar applications covering the adjoining site to its north;

- (iii) the proposals on the parking arrangement, run-in/out, landscape, drainage and fire safety aspects submitted under the s.16 application stage had yet to be accepted by the concerned departments. No revised proposal had been submitted at the s.17 review stage. The applicant failed to demonstrate that the development would not cause adverse traffic, landscape and drainage impacts on the surrounding areas; and
- (iv) further approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions, thus nullifying statutory planning control.

73. The Chairman then invited the applicant to elaborate on the review application. Mr Lam Sun Tak made the following main points:

- (a) he had genuine intention to comply with the approval conditions in relation to the previous planning permission, but was unfamiliar with the procedures and there was insufficient time for him to liaise with the relevant government departments to resolve the outstanding issues (i.e. to comply with the submission and implementation aspects of the relevant proposals within 3 and 6 months respectively). It was suggested that clearer guidelines should be provided to facilitate the fulfilment of approval conditions;
- (b) in discharging the approval condition on drainage, he had to obtain the

consent from the nearby land owners on the proposed drainage connection. The Drainage Services Department (DSD) had advised him that the drainage facilities near the Site were not maintained by DSD and he needed to identify the owner of the drainage facilities to sort out the issues;

- (c) the implementation of the run-in/out was delayed due to the need to liaise with CLP Power Hong Kong Limited and the Hong Kong Telecommunications Limited to ensure that the excavation works would not affect the underground cables. Besides, efforts had been made to liaise with the Highways Department (HyD) and an officer from HyD visited the Site on 12.5.2016 to provide advice on the run-in/out issues. He would implement the run-in/out in accordance with HyD's advice;
- (d) he committed to fulfil the approval condition on the fire service installations which were relatively easy to implement;
- (e) with respect to the approval condition on landscape, efforts had been made to liaise with PlanD on the requirement of the planters, which were considered as too stringent and unrealistic;
- (f) given that all the adverse public comments were in a standard form, it was doubtful if the comments were submitted by the competitors with malicious intention rather than the local villagers; and
- (g) in view of the rising public awareness on environmental protection, the proposed environmental and landscaping consultancy firm would provide tree management and greening services, creating more work opportunities for the youngsters.

74. As the presentation of PlanD's representative and the applicant had been completed, the Chairman invited questions from Members.

75. Noting that the approval conditions incorporated in the previous planning

permissions were mainly standard requirements, a Member asked if the subject application was approved, how much time the applicant would require to comply with those conditions. In response, Mr Lam Sun Tak, the applicant said that if the review application was approved, the planning permission for the Site would last for one more year (i.e. up to 3.6.2017). Among the remaining approval conditions, the main outstanding issue was related to the provision of run-in/out, which could hopefully be resolved within one to two months' time as HyD had rendered assistance and provided useful advice. The approval conditions on tree preservation and landscape could readily be complied with by the implementation of suitable landscaping works. The issues on drainage and fire services installations had largely been resolved.

76. In response to a Member's question, Mr David C.M. Lam, DPO/ TM&YLW, making reference to a table on the fulfilment of approval conditions shown in the Powerpoint, said that with respect to the previous planning permission (No. A/YL-TT/327), the submission part of approval conditions on parking arrangement and tree preservation/landscape proposal, and the implementation of the run-in/out had yet to be agreed by relevant government departments. For the drainage proposal, the submission part was discharged but the drainage proposal had yet to be implemented. With respect to the fire service installations, since the applicant only submitted the proposal one day before the expiry of the planning permission, the Fire Services Department had not replied before the deadline and the issue had not been followed-up after the revocation of the planning permission.

77. A Member asked the applicant whether he was aware that he could apply for extension of time (EOT) for compliance with approval conditions for planning permission. Mr Lam Sun Tak said that he had applied for EOT for compliance with approval conditions in relation to the previous planning permissions. However, some of the EOT applications were approved with a shorter extension of the compliance time, which was insufficient for him to fulfil all the approval conditions. Mr David Lam supplemented that while the applicant had not applied for EOT for the latest planning permission (No. A/YL-TT/327), five EOT applications for his previous permission (No. A/YL-TT/302) at the Site had been received and approved. Besides, 15 EOT applications in relation to two other similar applications (No. A/YL-TT/301 and 343) covering the adjoining area of the Site submitted by the same applicant were approved.

[Mr Alex T.H. Lai left the meeting at this point.]

78. In response to a Member's question, Mr David Lam said that EOT applications would normally be approved if the applicant had provided full justifications and demonstrated that reasonable actions had been taken to comply with the outstanding approval conditions. Although there was no restriction on the number of EOT applications, the total compliance period (including the extension period sought under the EOT application) should normally not exceed three-quarters of the duration of the temporary permission.

79. In response to the Chairman's question on why Mr Lam had not engaged a consultant in taking forward the proposed development, Mr Lam Sun Tak said that he preferred to deal with the application with his own efforts so as to acquire more knowledge during the process. It was also the reason why he needed more time to fulfill the approval conditions.

80. In response to a Member's question, Mr David Lam said that although the previous applications at the Site were applying for real estate agency use, the nature of those applications (i.e. shop and services) and the proposed structures were the same as the subject application. The approval conditions imposed for all the previous applications were largely the same and required similar works for compliance. The first application (No. A/YL-TT/289) at the Site was approved in 2011, but most of the works in relation to the approval conditions at the Site had not yet been done.

81. Mr David Lam continued to say that in the appeal of the previous application (No. A/YL-TT/327), the applicant had committed to comply with the approval conditions. The planning permission allowed by the TPAB was, however, revoked due to non-compliance of the approval conditions. The Chairman reminded Members that the appeal case was related to the previous application at the Site rather than the subject application.

82. As Members had no further question, the Chairman informed the applicant that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in his absence and inform him of the Board's decision in due course. The Chairman thanked the applicant and PlanD's representative for

attending the meeting. They left the meeting at this point.

Deliberation Session

83. A Member said that the main consideration in the subject review application was the repeated revocation of planning permissions granted to the applicant at the Site. The Chairman said that given the explanation of the applicant in the review application, and having listened to the applicant face to face, Members might wish to consider whether the applicant had a genuine intention as well as the ability to comply with the applicable approval conditions if an approval was granted.

84. A Member said that even the applicant appeared to have sincerity in his wish to comply with the approval conditions, his ability to resolve the outstanding issues within the prescribed time was in doubt. Another Member said that the applicant's claim of being unfamiliar with the required procedures was not convincing given the fact that he had already handled a number of previous and similar applications in the area. The Member casted doubt on both the sincerity and ability of the applicant.

85. A Member said that the subject application could be approved as there was provision to revoke the planning permission in case non-compliance of approval condition was found again. Another Member said that since each application should be considered on its individual merits, the subject application could be approved if sufficient justifications had been provided. However, a shorter compliance time might be given so as to closely monitor the fulfilment of the approval conditions. If the applicant did not take reasonable actions to discharge the approval conditions, his subsequent EOT application for compliance with approval conditions should be rejected.

86. The Chairman said that in considering review applications, Members might wish to consider whether the applicant had provided strong grounds to warrant a departure from the RNTPC's decision. A Member considered that the applicant had not submitted sufficient information to address RNTPC's concern or demonstrated that the development would not cause adverse traffic, landscape and drainage impacts on the surrounding area.

87. A Member noted that the applicant's justification in the review application were

similar to those provided in the appeal of the previous application (No. A/YL-TT/327) at the Site, and the previous application allowed by the TPAB was subsequently revoked due to non-compliance of approval conditions. Given the history of repeated non-compliances, the Member said that it was difficult to believe the applicant could comply with the approval conditions if the subject application were approved. The Member considered that the subject application should be rejected as further approval of application with repeated non-compliances would nullify the statutory planning control mechanism.

88. In response to some Members' question, the Chairman explained that under the existing mechanism, if an application was rejected, the applicant could choose to apply for appeal against the Board's decision or to submit a fresh application with probably additional information to demonstrate the applicant's intention and ability to deal with the issues that had led to the previous rejection. A Member considered that if the applicant had both the sincerity and ability, he should demonstrate his ability to resolve the outstanding issues when making a fresh application.

89. In response to a Member's question on the Board's previous approach in considering applications of applicants with repeated revocation record, the Secretary said that in general, an application involving two or more previous revocations due to non-compliance of approval conditions would not be approved unless the applicant could demonstrate that reasonable actions had been taken to resolve the outstanding issues, such as making submissions of proposals for consideration by the relevant government departments when a fresh s.16 application was submitted. For the subject site, given that two previous planning permissions had been revoked due to non-compliance of approval conditions and no proposals had been submitted with the fresh application to address the concerns on drainage, run-in/out and landscaping, the decision of the RNTPC/Board to reject the subsequent two applications (No. A/YL-TT/327 and 344) and the current application were consistent with the Board's established practice.

90. Members generally agreed that the applicant failed to demonstrate that the proposed development would not have adverse impacts and failed to provide strong justifications to address RNTPC's concern on non-compliance of approval conditions, and approval of application with repeated non-compliances would set an undesirable precedent.

91. After deliberation, the Board decided to reject the application on review for the following reasons:

- “(a) the applicant fails to demonstrate that the proposed development would not cause adverse traffic, landscape and drainage impacts on the surrounding area; and
- (b) previous planning permissions granted to the applicant were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.”

[Mr Patrick H.T. Lau and Miss Charmaine H.W. Wong left the meeting at this point.]

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 6

[Open meeting (Presentation and Question Sessions only)]

Request for Deferment of Review of Application No. A/YL-KTS/685

Temporary Open Storage (Concrete from Demolished Buildings) for a Period of 3 Years in “Agriculture” zone, Lots 355 RP (Part), 356 S.B, 356 RP, 359 RP, 360 RP (Part), 361, 362 (Part), 363, 364 (Part), 435RP (Part) in D.D. 103, and Adjoining Government Land, Ko Po Tsuen, Kam Tin, Yuen Long

(TPB Paper No. 10122)

[The item was conducted in Cantonese.]

92. The Secretary reported that Ms Janice W.M. Lai had declared interest in the item as her family member owned a property at Cheung Po Tsuen, Kam Tin South. As the property of Ms Janice W.M. Lai’s family member had no direct view of the site, Members agreed that she should be allowed to stay in the meeting.

93. The Secretary reported that on 17.5.2016, the applicant's representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer making a decision on the review application for two months to allow the applicant to prepare further information (FI). It was the first request from the applicant for deferment of the review application.

94. Members noted that the justification for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No. 33) in that the applicant was preparing FI which was essential for the consideration by the Board, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

95. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of FI by the applicant. The Board also agreed that the review application would be submitted to the Board for consideration within three months upon receipt of further submission from the applicant. If the submission 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 two months for the preparation and submission of FI, and no further deferment would be granted unless under very special circumstances.

Procedural Matters

Agenda Item 7

[Open Meeting]

Application to the Chief Executive Under Section 8(2) of the Town Planning Ordinance for Extension of Time Limit for Submission of the Draft Tsing Yi Outline Zoning Plan No. S/TY/27 to the Chief Executive in Council for Approval
(TPB Paper No. 10124)

[The item was conducted in Cantonese.]

96. The Secretary reported that two of the amendment items (Items A1 and A2) were for a proposed public housing development to be undertaken by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA). AECOM Asia Company Limited (AECOM) and Mott MacDonald Hong Kong Limited (MMHK) were consultants of HD. The following Members had declared interests in the item:

- | | | |
|---------------------------------------------------------------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ms Bernadette Linn
(<i>as Director of Lands</i>) | - | being a member of HKHA; |
| Ms Phyllis C.M. Li
(<i>as Director of Planning</i>
(<i>Atg.</i>)) | - | being a member of the Strategic Planning Committee and Building Committee of HKHA; |
| Mr H.F. Leung | - | being a member of the Tender Committee of HKHA; |
| Miss Charmaine H.W. Wong
(<i>as Assistant Director, Home Affairs Department</i>) | - | being a representative of the Director of Home Affairs who was a member of the Strategic Planning Committee and the Subsidised Housing Committee of HKHA; |
| Ms Janice W.M. Lai |] | having business dealing with HKHA and |
| Mr Patrick H.T. Lau |] | AECOM; |
| Dr C.H. Hau |] | |
| Mr Thomas O.S. Ho |] | having business dealing with HKHA; |
| Mr Stephen L.H. Liu |] | |
| Mr Ivan C.S. Fu | - | having past business dealing with HKHA and business dealing with AECOM; |

- Mr Dominic K.K. Lam] having past business dealing with HKHA,
Mr Franklin Yu] AECOM and MMHK;
- Dr Lawrence W.C. Poon - his spouse being an employee of HD but not
involved in planning work; and
- Professor S.C. Wong - being the Chair Professor and Head of the
(*The Vice-chairman*) Department of Civil Engineering of the
University of Hong Kong where AECOM
had business dealing with some colleagues
and had sponsored some activities of the
Department before.

97. As the item was procedural in nature and no discussion was required, Members agreed that the above Members should be allowed to stay in the meeting. Members also noted that Mr Ivan C.S. Fu had tendered apologies for being unable to attend the meeting and Mr H.F. Leung, Miss Charmaine H.W. Wong, Mr Patrick H.T. Lau, Mr Thomas O.S. Ho, Dr Lawrence W.C. Poon and Professor S.C. Wong had already left the meeting.

98. The Secretary reported that on 7.8.2015, the draft Tsing Yi Outline Zoning Plan (OZP) No. S/TY/27 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the plan exhibition period, a total of 961 representations and 350 comments were received.

99. Owing to the large number of representations and comments received, the hearing sessions for the representations and comments were held on 21 and 26.4.2016. At the session on 26.4.2016, the Board decided to deliberate on the representations/comments at a separate session due to the large number of representations/comments and complexity of the issues involved. The deliberation session was held on 20.5.2016 but more time was required for further deliberation.

100. According to the statutory time limit, the draft OZP should be submitted to the Chief Executive in Council (CE in C) for approval on or before 7.7.2016. As more time was required for further deliberation by the Board, it was unlikely that the draft OZP could be

submitted to CE in C for approval before 7.7.2016.

101. The plan-making process could not be completed within the 9-month statutory time limit for the submission of the draft OZP to CE in C for approval (i.e. 7.7.2016) as more time was required for the deliberation by the Board and the subsequent preparation of ExCo paper to CE in C for approval. In view of the above, there was a need to apply to the CE for an extension of the statutory time limit for six months (i.e. 7.1.2017).

102. After deliberation, the Board agreed that the CE's agreement should be sought under section 8(2) of the Ordinance to extend the time limit for submission of the draft Tsing Yi OZP No. S/TY/27 to CE in C for a period of six months from 7.7.2016 to 7.1.2017.

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Pak Sha O Outline Zoning Plan No. S/NE-PSO/1 (TPB Paper No. 10126)

[The item was conducted in Cantonese.]

103. The Secretary reported that the following Members had declared interests in the item as two of the representations was submitted by the Conservancy Association and Kaitak Centre for Research and Development, Academy of Visual Arts, Hong Kong Baptist University (HKBU) respectively:

- | | | |
|---------------------|---|--------------------------------------------------------------------------------------------------------|
| Dr C.H. Hau | - | being the Vice-chairman of the Conservancy Association; |
| Mr Stephen H.B. Yau | - | being the Chairman of the Social Work Advisory Committee of the Department of Social Work in HKBU; and |
| Ms Christina M. Lee | - | being a part-time student of HKBU. |

104. As the item was procedural in nature and no discussion was required, Members agreed that the above Members should be allowed to stay in the meeting.

105. The Secretary reported that on 4.12.2015, the draft Pak Sha O Outline Zoning Plan No. S/NE-PSO/1 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 1,807 representations and 36 comments were received.

106. The representations could be categorized into two groups. The first group comprised 515 representations (R1 to R515) submitted by the Sai Kung North Rural Committee (SKNRC), villagers and individuals. They mainly objected to the insufficient size of the "Village Type Development" ("V") zone and the development control. The second group comprised the remaining 1,292 representations (R516 to R1807) submitted by green/concern groups and individuals. They mainly raised concerns on the "V" and "Agriculture" ("AGR") zones on environmental and heritage conservation grounds and the suspected abuse of the Small House Policy. They proposed to rezone the "V" and "AGR" zones to "Green Belt" ("GB") or "Conservation Area" ("CA") as well as designate all environmentally sensitive areas as "GB(1)" and "CA" zones.

107. All 36 comments received (C1 to C36) were submitted by green/concern groups and individuals. One comment raised objection to the "V" zone while the remaining 35 comments mainly opposed to the representations in the first group above.

108. It was recommended that the representations and comments should be considered by the full Board. In view of the large number of representations and comments received, additional meeting dates would be scheduled for the Board's consideration of the representations and comments, if necessary.

109. In view of the large number of representations, and to ensure efficiency of the hearing, it was suggested to consider the representations and comments in two groups, and to allot a maximum of 10 minutes presentation time to each representer and commenter in the hearing session:

Group 1

- (a) collective hearing of the first group comprising 515 representations (R1 to R515) submitted by SKNRC, villagers and individuals who mainly objected to the insufficient size of the “V” zone and its development control; and

Group 2

- (b) collective hearing of the second group comprising 1,292 representations (R516 to R1807) and 36 comments (C1 to C36) submitted by the green/concern groups and individuals mainly in relation to the environmental and heritage conservation concerns.

110. Consideration of the representations and comments by the full Board was tentatively scheduled for July 2016.

111. After deliberation, the Board agreed that:

- (a) the representations and comments should be considered by the Board itself; and
- (b) the Chairman would, in liaison with the Secretary, decide on the need to impose a 10-minute presentation time for each representer and commenter, taking into account the number of representers and commenters who would attend the hearing.

Agenda Item 9

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

112. There being no other business, the meeting was closed at 12:50 p.m.