

**Minutes of 1218th Meeting of the
Town Planning Board held on 13.3.2020**

Present

Permanent Secretary for Development
(Planning and Lands)

Chairperson

Ms Bernadette H.H. Linn

Professor S.C. Wong

Vice-chairperson

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Stephen H.B. Yau

Dr F.C. Chan

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Principal Assistant Secretary for Transport and Housing
(Transport 3)

Transport and Housing Bureau

Mr Andy S.H. Lam

Chief Engineer (Works)

Home Affairs Department

Mr Paul Y.K. Au

Assistant Director (Environmental Assessment)

Environmental Protection Department

Mr Terence S.W. Tsang

Assistant Director (Regional 3)

Lands Department

Mr Alan K.L. Lo

Director of Planning

Mr Raymond K.W. Lee

Deputy Director of Planning/District

Miss Fiona S. Y. Lung

Secretary

Absent with Apologies

Mr David Y.T. Lui

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Stephen L.H. Liu

Mr Stanley T.S. Choi

Dr Jeanne C.Y. Ng

Mr Ricky W.Y. Yu

In Attendance

Assistant Director of Planning/Board

Ms Lily Y.M. Yam

Chief Town Planner/Town Planning Board

Mr Kepler S.Y. Yuen

Senior Town Planners/Town Planning Board

Mr Eric C.Y. Chiu (Items 1 to 5)

Ms Carmen S.Y. Chan (Items 6 to 13)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1217th Meeting held on 3.3.2020

[The item was conducted in Cantonese.]

1. The draft minutes of the 1217th meeting held on 3.3.2020, which was a special meeting, would be submitted to Members for consideration in due course.

Agenda Item 2

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

2. The Secretary reported that there was no matter arising.

Tsuen Wan and West Kowloon District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/K1/259

Renewal of Planning Approval for Temporary Eating Place (Restaurant) for a Period of 3 Years in “Government, Institution or Community” Zone, B/F (Portion) and G/F (Portion), Hong Kong Scout Centre, 8 Austin Road, Tsim Sha Tsui, Kowloon
(TPB Paper No. 10627)

[The item was conducted in Cantonese.]

3. The Secretary reported that the application was submitted by the Scout Association of Hong Kong (SAHK) and the application premises (the Premises) was located in Tsim Sha Tsui. The following Members had declared interests on the item :

Mr Stephen H.B. Yau - being a member of Executive Committee and Chairman of Children and Youth Service Development Sub-committee of the Friend of Scouting, SAHK; and

Mr Stanley T.S. Choi - his spouse being a director of a company owning properties in Tsim Sha Tsui.

4. Members noted that Mr Stanley T.S. Choi had tendered apologies for being unable to attend the meeting and agreed that as the interest of Mr Stephen H.B. Yau was direct, he should be invited to leave the meeting temporarily for the item.

[Mr Stephen H.B. Yau left the meeting temporarily at this point.]

Presentation and Question Sessions

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

Mr Derek W.O. Cheung - District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), PlanD

Ms Caroline T.Y. Tang - Senior Town Planner/Yau Tsim Mong (STP/YTM), PlanD

<i>SAHK</i> -]	
Mr Augustine Wong]	
Ms Evita Lee]	
Mr Owen Yue]	Applicant's Representatives
]	
<i>Fotton Surveyors</i>]	
<i>Limited</i> -]	
Mr Alain Lau]	

6. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representatives to brief Members on the review application.

7. With the aid of a PowerPoint presentation, Ms Caroline T.Y. Tang, STP/YTM, briefed Members on the background of the review application including the consideration of the application by the Metro Planning Committee (MPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10627 (the Paper).

8. The Chairperson then invited the applicant's representatives to elaborate on the review application. Mr Augustine Wong, the applicant's representative, made the following main points:

- (a) since the consideration of the application by the MPC in October 2019, there had been a major change in the overall economic atmosphere of Hong Kong due to the coronavirus outbreak. It was noted that some restaurants nearby the Premises were closed down recently. The temporary approval of one year granted by the MPC was too short from a business operation

point of view. The Board was requested to grant a longer approval period so that the restaurant operator could continue the business in this challenging time;

- (b) at the moment, the restaurant at the Premises offered one of the lowest price options for residents in the area, many of whom were elderly and came from the grassroots;
- (c) the SAHK would give priority to using the Premises for government, institution and community (GIC) use if such opportunity arose in the future; and
- (d) relevant government departments had no objection to the application.

9. As the presentations from PlanD and the applicant's representatives had been completed, the Chairperson invited questions from Members.

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

10. The Chairperson and some Members raised the following questions to PlanD's representatives:

Hong Kong Scout Centre (HKSC)

- (a) what services were provided in the HKSC;
- (b) background for the guesthouse use at HKSC; and whether the Government could require SAHK to provide other GIC uses, or take back the lot or part of it;

GIC Uses

- (c) what the planning intention of the "Government, Institution or Community" ("G/IC") zone was; and reason to incorporate various uses in Column 2 of the Notes;

- (d) whether PlanD was responsible for identifying suitable GIC uses for the Premises and whether there was any condition in the land grant governing the use of the Premises;
- (e) whether the Premises was suitable to be used as an elderly facility or other GIC uses;
- (f) if the Premises was put to alternative GIC use, whether any statutory planning and land administration procedures would be required;

Restaurant Use

- (g) how long had the Premises been used as a restaurant;
- (h) where the other restaurants in the area were located; and whether a temporary approval of one year was too short given the current economic turmoil;
- (i) noting that restaurants uses in swimming pools and private recreational clubs were commonly found in “G/IC” zone, how the restaurant use was different from those restaurant uses from the statutory planning perspective; and
- (j) whether the district council had been consulted on the application.

11. Mr Derek W.O. Cheung, DPO/TWK, with the aid of some PowerPoint slides, made the following responses:

The HKSC

- (a) the HKSC was a 28-storey building mainly consisted of a cross-boundary coach terminus, public car park and lounge at the lower levels, and scout clubhouse, catering facilities, offices and guest rooms on the upper floors;

- (b) according to the Private Treaty Grant (PTG) approved by the Executive Council in 1989, income-generating facilities, such as the guesthouse, were allowed at the HKSC so that the cost of construction could be recovered over a period of about 10 to 12 years. The canteen at the Premises was supposed to be an ancillary facility for the HKSC and not one of those income-generating facilities. The guesthouse use was always permitted on the OZP when the PTG was executed. According to the PTG, there was no requirement for SAHK to provide additional GIC facilities in SCHK and whether the Government could re-enter the lot or part of it depended on the conditions in the PTG;

GIC Uses

- (c) the planning intention of “G/IC” zone was mainly for provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. Column 2 uses were mainly to provide flexibility to accommodate some suitable uses within a zone upon application to the Board. If more than 50% of a site under application was used for non-GIC uses, rezoning of the site to an appropriate zoning should be considered;
- (d) PlanD would make reference to the projected population and the standard of provision stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) in the planning of GIC facilities. If required, relevant government departments could also approach PlanD to conduct site searches for provision of GIC facilities. Under the “single site, multiple use” model, the Government would strive to co-locate different compatible GIC uses within the same building in order to better utilise scarce land resources. For the current case, all lease conditions in the land grant for the HKSC had been fulfilled;
- (e) while there was a shortfall in the provision of elderly facilities in the area according to the newly revised HKPSG requirements, the Social Welfare

Department (SWD) advised that the Premises was not suitable for the provision of elderly and other welfare facilities due to the lack of natural ventilation and natural lighting. Apart from that, there was generally no shortage of other premises-based community facilities in the area. Regarding the scope to accommodate other GIC uses at the Premises, it would mainly depend on whether the use required natural ventilation and natural lighting;

- (f) for an alternative GIC use, if it was a Column 1 use in the “G/IC” zone, no planning permission from the Board was required. If the use was a Column 2 use that had obtained planning permission from the Board, application for Short Term Waiver should be submitted to the Lands Department as required;

Restaurant Use

- (g) the Premises had been used as a restaurant since 1996 but the first planning application (No. A/K1/255) was only submitted in 2016. The MPC granted a temporary approval for the restaurant under application No. A/K1/255 for a period of three years, instead of six years sought, in order to review the possibility of accommodating other GIC uses at the Premises in the future. The views and decision of the MPC on that application had been conveyed to the applicant;
- (h) according to the building plans, the application premises was approved for canteen use, originally intended to serve users of SCHK. It was later converted to a restaurant serving the general public. There were many restaurants in the vicinity of the Premises including about 11 Chinese restaurants within 300m from the Premises. PlanD’s work on land use planning was mainly focused on reserving sufficient land in meeting various development needs. It was not in a position to determine whether the approval period was long enough from a business operation perspective taking into account the ups and downs of economic cycles;

- (i) 'place of recreation, sports or culture' use was always permitted in "G/IC" zone and uses that were ancillary to a permitted use would not require planning permission from the Board. In the current case, the Home Affairs Bureau did not consider the restaurant, which was open to the general public, as an ancillary use of the HKSC and therefore the use required planning permission from the Board; and
- (j) the relevant Yau Tsim Mong District Council Members had been notified of the application during the statutory publication period and they could submit written comments, if any, to the Board.

12. The Chairperson and some Members raised the following questions to the applicant's representatives:

- (a) whether SAHK had attempted to identify suitable GIC uses to be accommodated in the Premises;
- (b) the number of SAHK members in total and the services provided by SAHK in the HKSC; and noting that nearly half of the floors of SCHK were used for guesthouse and there was already food and beverages facilities on 8/F and 13/F, the number of the SAHK members who had visited the restaurant at the Premises;
- (c) whether the rent for the Premises was lower than the market rent; and whether the rent was a crucial income for the operation of SAHK;
- (d) whether SAHK was in need for additional floorspace to provide new services, had any plan for expansion, and had invited or was requested by other organisations to use the Premises for GIC purpose; and
- (e) noting that there was strong local objection to the application, whether the applicant had considered using the Premises to provide more services to serve the local residents in particular the youth.

13. Mr Augustine Wong, the applicant's representative, made the following responses:

- (a) the Premises was located at the basement level with no natural lighting and natural ventilation, therefore the type of uses that could be accommodated was severely limited. Elderly centre, for example, was considered not a suitable use at the Premises due to the above considerations. On the other hand, the Government had no immediate need to use the Premises for providing GIC facility in the district;
- (b) SAHK had about 100,000 members in HK, including about 35,000 members of above 26 years old. Facilities in the HKSC mainly included conference, meeting and training venue for scouts. Some of the facilities in the building were operated by SAHK while the guesthouse and related facilities were operated by a professional hotel management company on behalf of SAHK. The canteen at 13/F of SCHK was small in size and mainly served staff of the guesthouse. He had no information regarding patronage to the restaurant by SAHK members as the restaurant operator had not maintained such record;
- (c) while the rent for the Premises was relatively low amongst other restaurants in the area, it was difficult to ascertain whether the rent for the Premises was lower than the market rent as each property had different locational characteristics that would affect its rental value, and therefore there could be no simple direct comparison. Income from renting out the Premises would be used for SAHK's operation but it was not a significant source of income;
- (d) a new building of SAHK in Wan Chai had recently opened. There was no immediate shortage of floor space for SAHK at the moment. SAHK had not invited nor received request from other organisations to use the Premises for GIC use. Notwithstanding that, SAHK would consider ways to open up channels for inviting such proposals;
- (e) the restaurant at the Premises was similar in nature to the permitted canteen use. The restaurant at the Premises was very cheap in price in the area

and also very popular among local residents. Two of the Chinese restaurants in the vicinity as mentioned by DPO/TWK in his presentation had already been closed for business. If the restaurant needed to be closed because only one year of temporary approval was granted, about 50 employees of the restaurant and many nearby residents would be affected; and

- (f) if SAHK needed to provide new services in the future, priority would be given to utilise the Premises.

14. As Members had no further question, the Chairperson 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 and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representatives and the applicant's representatives for attending the meeting. They all left the meeting at this point.

[Dr Frankie W.C. Yeung and Mr Thomas O.S. Ho arrived to join the meeting during the Q&A session.]

Deliberation Session

15. The Chairperson said that the "G/IC" zone was intended primarily for provision of GIC facilities and land for uses directly related to or in support of the work of the Government and organisations providing social services to meet community needs. The HKSC site was under a PTG that permitted some income-generating uses so as to offer some financial support to the operation of SAHK. However, restaurant was not among those uses so permitted under the PTG. The restaurant might have caused concern on unfair competition with other restaurants in the area. The applicant's representative had also confirmed that the income from renting out the Premises for restaurant use was not a crucial part of SAHK's source of income, hence it could not be argued that the restaurant was a use required to support the work of SAHK in providing social services. In the circumstances, it would appear that the Board had good reasons confining its approval for non-GIC use (if given) to a temporary period so as to prompt early use of the Premises for GIC purposes to meet the planning intention. The major consideration in the current application was whether a longer

approval period, instead of the one year granted by the MPC, was appropriate. When deliberating on the validity period, Members might wish to consider whether the economic downturn cited by the applicant's representative and the lead time required for identifying a GIC use and the subsequent conversion works would be relevant factors.

16. Three Members considered that despite the Premises being located in a basement level might not be suitable for an elderly centre, there was scope to provide other types of GIC facilities or services in it, including facilities that could serve a wider district or region. Given the Premises' convenient location in Tsim Sha Tsui, it was highly unlikely that no other organisation was interested in using the Premises to provide community services. In granting the previous temporary approval for a period of three years, it was clearly conveyed to the applicant that the possibility of accommodating other GIC uses in the future should be explored. The MPC decided to grant an approval period of one year for the renewal application on sympathetic consideration so as to allow time for SAHK to identify suitable uses for the Premises during the period. The justifications provided by SAHK for the review application were not convincing and SAHK should be required to demonstrate that it had endeavored to identify suitable GIC use for the Premises. At the same time, the Government should take the lead to help identify suitable GIC uses that could be accommodated in the Premises.

17. A Member said that there was a general expectation that income generated by renting out floor spaces in "G/IC" zone by non-government organisations (NGOs) should be used for services for betterment of the community. Currently, a significant portion of the floor space in HKSC was already used for a guesthouse rather than scout training and community services. Another Member added that while some private recreational clubs also allowed members of the public to use some of their facilities, it was usually limited to the recreational facilities, and catering facilities could be accessible by only the club members. Due consideration should be given to the potential social benefit that could be brought if the Premises was used for GIC use. A Member said that despite the applicant's argument that the restaurant at the Premises was bringing some positive value to the local community due to its relatively low price, pricing strategy of private business should not be a material consideration of the Board.

18. Notwithstanding that, given the enormous hardship recently faced by businesses, in particular the challenges brought by the coronavirus outbreak, some Members considered that there might be an exceptional circumstance that might warrant sympathetic consideration for a slightly longer approval period. Two Members proposed that an approval period of two years could be granted, taking into account the prevailing economic circumstances and the lead time required for turning the Premises into GIC use(s). Another Member did not agree and considered a temporary approval of one year was most appropriate. Mr Andy S.H. Lam, Principal Assistant Secretary for Transport and Housing (Transport 3), Transport and Housing Bureau, said that as an alternative, the Board might consider to grant an approval period of specified duration or up to the expiry/termination of the term of the existing operating agreement of the Premises, whichever was the earlier. In response, Mr Raymond K.W. Lee, Director of Planning, said that since no information on operating agreement of the Premises was available at the moment, it might be difficult for the Board to pursue that option.

19. A Member cast doubt on whether the economic turmoil should be a reason for sympathetic consideration of the review application by the Board. Another Member said that sympathetic consideration had been given by MPC to approve the application for one year and there was no planning ground to justify a longer approval. If the restaurant operator decided to terminate the restaurant business under the prevailing economic environment, it should not be the responsibility of the Board as the Board's purview was mainly on land use planning. SAHK should take the initiative to work out the potential long-term use for the Premises if it was not needed for a canteen. Another Member added that SAHK, as a major NGO in HK, should proactively identify ways to provide more community service in the Premises so as to meet its social mission.

20. A Member stressed that even if a longer approval was granted, the applicant should be reminded that no further renewal would be granted. Another Member said that it might not be suitable for the Board to pre-empt the decision of the MPC or the Board on future applications as each application should be assessed individually based on the prevailing planning circumstances. The Chairperson said it would not be appropriate for the Board to make a decision at this juncture on any application of similar nature yet to be submitted, as so doing would be a pre-emptive decision made out of time. The views and concerns of Members would be recorded in the minutes and provided to the applicant for reference. If an application for further renewal of planning permission was received in the future, the Board

of the day could take into account relevant applications and factors that were previously considered by the Board and MPC.

21. As Members had diverse views, a vote was taken on the review application. Slightly more Members were in favour of granting an approval period of two years in total.

22. After deliberation, the Board decided to approve the application on a temporary basis for a period of two years from 10.12.2019 to 9.12.2021, on the terms of the application as submitted to the Board.

[The meeting was adjourned for a short break of 10 minutes.]

[Mr Stephen H.B. Yau returned to join the meeting and Professor S.C. Wong arrived to join the meeting at this point. Mr Alex T.H. Lai and Mr Franklin Yu left the meeting at this point.]

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-NTM/391

Filling of Land and Filling of Pond for Permitted Agricultural Use in “Green Belt” Zone, Lots 232 (Part), 233 (Part), 234 (Part), 235 (Part) and 236 RP (Part) in D.D. 104, and Adjoining Government Land, Ngau Tam Mei, Yuen Long
(TPB Paper No. 10621)

[The item was conducted in Cantonese.]

23. Members noted that a set of replacement pages, reflecting the rescheduled meeting date and its corresponding revisions, was dispatched to Members prior to the meeting.

Presentation and Question Sessions

24. The following government representatives and the applicant were invited to the meeting at this point:

- Miss Winnie B.Y. Lau - District Planning Officer/Fanling, Sheung Shui & Yuen Long East, Planning Department (DPO/FSYLE, PlanD)
- Dr Jim C.W. Chu - Senior Fisheries Officer (Aquaculture Fisheries), Agriculture, Fisheries and Conservation Department (SAFO, AFCD)
- Ms Teresa C.Y. Ma - Fisheries Officer (Inland Culture Development), AFCD
- Mr W. C. Choi - Applicant

25. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review application.

26. With the aid of a PowerPoint presentation, Miss Winnie B.Y. Lau, DPO/FSYLE, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10621 (the Paper).

27. The Chairperson then invited the applicant to elaborate on the review application. Mr W.C. Choi, the applicant, made the following main points:

- (a) he had been practicing local modern fish farming for many years. He purchased the Site in 2016 and started converting the earthen ponds at the Site to a concrete pond for modern fish farming. Those earthen ponds were not natural ponds and were excavated by local villagers a few decades ago. Staff of the Lands Department (LandsD) and PlanD had made a number of visits to the Site since 2016. However, he had not been advised by PlanD that the use at the Site was an unauthorised development during those visits. He was only served with an Enforcement Notice (EN)

from PlanD two years after the works had been completed. Notwithstanding that, he had no intention to undertake unauthorised pond/land filling works and he had simply overlooked the requirement to obtain planning permission prior to commencing the land/pond filling works;

- (b) the conversion work had indeed improved the general amenity at the Site. All major trees in the vicinity of the Site had been preserved during the conversion. He was willing to take additional compensation measures including planting more trees to further improve the environment; and
- (c) the Site was not a recreational farm/fishing ground opened to the public. The Site, located in a remote location with no direct vehicular access, could not be used for other purposes but a fish farm. The modern fishing technique he employed was recognised by relevant organisations in the industry. The operation of the fish farm had not caused any nuisance to the nearby local villagers.

[Dr Lawrence W.C. Poon arrived to join the meeting at this point.]

28. As the presentations from PlanD's representative and the applicant had been completed, the Chairperson invited questions from Members.

29. The Chairperson and some Members raised the following questions to the government representatives:

- (a) what the planning intention of the "Green Belt" ("GB") zone was and whether fish farming required planning permission;
- (b) when and the extent of the Site that was paved with concrete; and whether PlanD had during their visits informed the applicant that the land/pond filling work being undertaken constituted an unauthorised development;
- (c) whether there were similar conversion works from earthen to concrete

ponds in the vicinity of the Site;

- (d) whether the applicant had proposed/carried out any remedial action in compliance with the EN/Reinstatement Notice (RN) issued;
- (e) whether approval of the application would create an undesirable precedent;
- (f) the approximate number of fish ponds currently in Hong Kong and whether they were earthen or concrete ponds; and the major difference between the two types of ponds;
- (g) whether the applicant had consulted AFCD prior to commencing the land/pond filling works;
- (h) whether AFCD had provided any support to the industry in particular regarding the setting up and operation of a fish farm; and
- (i) whether licence from AFCD was required for the subject fish farm, and the prerequisites for AFCD to provide fry to fish farms.

30. Miss Winnie B.Y. Lau, DPO/FSYLE, with the aid of some PowerPoint slides, made the following responses:

- (a) the planning intention of “GB” zone was primarily to define the limits of urban and sub-urban development areas by natural features. The “GB” zone also acted as a buffer between urban and sub-urban developments. There was a general presumption against development in the “GB” zone. While ‘agricultural use’, including fish farming, was always permitted in “GB” zone, filling of land/pond in the “GB” zone required prior planning permission from the Board;
- (b) according to the aerial photos, there were ponds within the Site in 2015. Based on the information submitted by the applicant, the entire Site had been filled/paved with concrete and the portion being used as pond was

about 53% (equivalent to about 2,062m²). During site inspections conducted by the Central Enforcement and Prosecution Section of PlanD, the worker at the Site had been provided with information leaflet on what constituted an unauthorised development under the Town Planning Ordinance and the worker was asked to relay the information to the operator/owner;

- (c) while there were some active fish ponds in the area, there was no similar application for land/pond filling for fish farm in the subject “GB” zone;
- (d) the EN and RN issued were against the unauthorised land/pond filling at the Site and required reinstatement of the Site by removal of the filled material and grassing the non-pond portion of the Site. While the applicant had proposed to plant more trees to improve the environment at the Site in support of the application, it would not fulfil the requirements stipulated in the EN and RN; and
- (e) the restriction on land/pond filling for the “GB” zone was mainly to address the problem of flooding common in many rural areas of the New Territories and each planning application would be assessed based on its individual merits.

31. Dr Jim C.W. Chu, SAFO, AFCD, made the following responses:

- (a) there were about 3,000 fish ponds in Hong Kong and most of them were earthen ponds. Generally speaking, earthen pond could better preserve the natural ecosystem whereas concrete pond could provide better control of water quality. The sloping bund of a natural pond might also better allow birds to feed along the periphery of the ponds. Both types of pond had their own advantages;
- (b) the applicant had not consulted AFCD prior to commencing the land/pond filling works at the Site. From a fishery perspective, adopting modern fish farming technique was supported by AFCD. However, all fish

farming operations should comply with the relevant legislation. For the current case, while the conversion of earthen pond to concrete pond at the northern portion of the Site could be regarded as pond maintenance works, the pond at the southern portion of the site had been filled with concrete and drained. Movable fish tanks were placed at the southern portion of the Site. As a result, there was a reduction in pond area, resulting in adverse impact from fishery perspective;

- (c) regarding measures to support the local fishery industry, AFCD would provide various types of support including technical studies, surveys, assistance and advice, certification as well as technical training to fish farmers for improving the productivity of the fishery sector; and
- (d) there was no licensing requirement for operating an inland fish pond. However, AFCD was responsible for approval of agricultural structures for fish farms. Generally speaking, AFCD would supply fry to operating fish farms and whether they were earthen or concrete ponds was not a consideration.

32. The Chairperson and some Members asked the applicant whether he would take remedial measures to restore/enhance the natural ecosystem at the Site. Mr W.C. Choi, the applicant, said that the pond area at the Site had not been substantially reduced therefore the impact on local ecology should be minimal. Also, he had no intention to drive away birds feeding at the pond. He was only informed by PlanD in 2018 that the land/pond filling works at the Site was an unauthorised development. However, if required and agreeable by AFCD, he was willing to refill water for the southern part of the Site. He could also replace the concrete paving at the circulation portion with gravel and plant more trees at the Site to beautify the environment.

33. In response to the Chairperson and some Members' query, Mr Raymond K.W. Lee, Director of Planning (D of Plan), explained that planning enforcement action taken by the Planning Authority (PA) and planning application to the Board involved two separate regimes under the Town Planning Ordinance (the Ordinance) and they were independent of each other. Non-compliance with EN and RN could be subject to prosecution action.

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

[Dr Lawrence C.K. Li left the meeting during the Q&A session.]

Deliberation Session

35. In response to the Chairperson and a Member's enquiry, Mr Raymond K.W. Lee, D of Plan, said that whether enforcement action would be taken by PA depended on the factual circumstances and evidence. There was no direct linkage with the Board's decision on s.16 applications. According to the provisions under the Ordinance, failure to comply with the requirements of a notice served by PA was an offense liable to a fine, but not imprisonment. In the current case, while the fish farming use was always permitted, the filling of land/pond required planning permission.

36. A few Members expressed concern regarding setting of undesirable precedent if the application was approved as proliferation of such concrete ponds in the area might change the water table and cause the area to be more susceptible to flooding. While AFCD had no objection to the use of modern fish farming technique including the use of concrete pond for better quality control from fishery perspective, the overall impact caused by filling of land/pond from nature conservation point of view should not be overlooked. Earthen ponds typically needed to be drained for cleaning on an annual or biennial basis, and the process served an ecological function to attract birds, which would be lost when the earthen ponds were converted to a concrete pond.

37. Members noted that land/pond filling works within sensitive areas such as country parks would be a Designated Project under the Environmental Impact Assessment (EIA) Ordinance and required submission of an EIA. From an environmental assessment perspective, the commercial fish farm was not a major food source for birds as the fish tended to be too large for birds to feed on.

38. A Member considered that ignorance of the law should not be an excuse to carry out unauthorised development, even if the applicant was genuinely unaware of the restrictions on pond/land filling in the “GB” zone. Two other Members said that vegetation at the Site had been cleared and it was unacceptable, given that the Site was within “GB” zone which was primarily intended to provide a buffer around more ecologically sensitive areas. If similar applications for filling of land/pond for fish farm use proliferated within the “GB” zone, the Board might need to formulate suitable guidelines for consideration of similar applications.

39. A Member supported the application and said that if the pond area at the Site could be maintained, AFCD would have no adverse comment on the application. Requiring the applicant to convert the concrete pond back to an earthen pond might not be the most pragmatic solution. Two other Members echoed the view and said that the application could be favourably considered as the fish pond at the Site could contribute to local food production. Another Member also considered that the environmental impact of filling of land/pond at the Site for a fish farm was relatively insignificant compared to other uses with land/pond filling commonly found in rural areas, such as open storage or housing development.

40. Two Members considered that whether the applicant had genuine passion in fish farming and intention to operate a well-managed fish farm was not for the Board to judge. It was not suitable for the Board to give sympathetic consideration based on such judgement. The Board should focus mainly on impact of the subject land/pond filling works. The current application, if approved, might set an undesirable precedent and the cumulative impact might be severe. The Board should take a more prudent stance in considering the application.

41. In response to a Member’s enquiry, the Secretary said that since the current application was for filling of land/pond, a temporary approval was not an option for the Board to consider because the works were permanent in nature.

42. Two Members noted that the Site had been substantially modified since 2015 and was now fully paved and the landscape character of the Site had been altered. While the applicant was willing to plant additional trees at the Site, the effectiveness of the landscape mitigation measures should also be duly considered.

43. The Chairperson said that filling of land/pond at the Site was carried out in 2015, and therefore could not be considered as an ‘existing use’, even though fish farming use was always permitted within the “GB” zone. The major consideration in the application was not whether it was desirable for a concrete pond to replace the original earthen pond at the Site, but whether the land/pond filling works was acceptable taking into account its extent and potential impact. Whether the applicant had a passion for modern fish farming or other sympathetic grounds to warrant approval should not be a material consideration in the current case. The Chairperson further remarked that if the application was approved, approval conditions on drainage would be required to address the concern on increased flooding risks. Other suitable approval conditions, including landscape provision and requiring the applicant to reduce the hard-paved area as much as possible to the satisfaction of AFCD, could also be considered.

44. As Members had diverse views, a vote was taken on the review application. Slightly more Members were in favour of approving the review application.

45. After deliberation, the Board decided to approve the application on review, on the terms of the application as submitted to the Town Planning Board (TPB). The permission had no time clause on commencement as the land and pond filling works under application had already been completed. The permission was subject to the following conditions:

- “ (a) the submission and implementation of a drainage proposal within **9** months to the satisfaction of the Director of Drainage Services or of the TPB by **13.12.2020**;
- (b) the submission and implementation of a landscape proposal within **9** months to the satisfaction of the Director of Planning or of the TPB by **13.12.2020**;
- (c) the submission and implementation of a proposal to minimise the hard-paved area, including the hard-paved area for the concrete pond, and restore the original pond surface area as far as practical within the Site within **9** months to the satisfaction of the Director of Agriculture,

Fisheries and Conservation or of the TPB by **13.12.2020**;

- (d) if any the above planning conditions (a), (b) or (c) 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.

46. The Board also agreed to advise the applicant to note the advisory clauses as set out at Annex H of the Paper.

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-ST/547

Temporary Container Vehicle Park with Ancillary Facilities (including Site Office and Storage) for a Period of 3 Years in “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” Zone, Lot 769 RP (Part) in D.D. 99 and Adjoining Government Land, San Tin, Yuen Long
(TPB Paper No. 10628)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

Miss Winnie B.Y. Lau - District Planning Officer/Fanling, Sheung Shui
& Yuen Long East, PlanD (DPO/FSYLE,
PlanD)

Top Bright Consultants Limited

Mr Raymond Y.H. Leung]

Mr Keith T.K. Lam]

Mr Avery C.H. Wai] Applicant’s representatives

Ms Christie L.C. Leung]

Mr T.M. Kong]

48. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review application.

49. With the aid of a PowerPoint presentation, Miss Winnie B.Y. Lau, DPO/FSYLE, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10628 (the Paper)

50. The Chairperson then invited the applicant's representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr Raymond Y.H. Leung, the applicant's representative, made the following main points in support of the review application:

- (a) the Site fell within the "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" ("OU(CDWRA)") zone which was intended for comprehensive development. Land assembly and wetland restoration was a lengthy process. Given the development restrictions stipulated on the Outline Zoning Plan (OZP) i.e. maximum plot ratio of 0.4 and a maximum building height of 6 storeys including car park, there was no strong incentive for the land owner to expedite the development process at the moment. The Site was small and temporary approval for using it as a temporary container vehicle park would not jeopardise the long-term planning intention;
- (b) the Site was used for industrial operation associated with a shipyard before the Interim Development Permission Area (IDPA) plan was published in 1990. Aerial photos showed that part of the Site was also used for storage purpose at that time;

- (c) previous comments from the Transport Department (TD) on manoeuvring and queuing of the container vehicles had been duly addressed and TD had no adverse comment on the application;
- (d) regarding the concern from the Environmental Protection Department on the two nearby sensitive receivers (SRs), those two related structures were located either within the same private lot of the Site or on government land. There was no information to demonstrate that those structures were being solely used for domestic purpose. Based on the photographs taken by the applicant, it was likely that those structures were used by workers of nearby businesses or for storage purpose. No environmental complaint against the Site had been received in the last three years;
- (e) at the moment there was a very high demand for container vehicle parking spaces in the San Tin area due to its proximity to the Lok Ma Chau (LMC) Boundary Control Point (BCP). However, it was anticipated that upon opening of the Liantang/Heung Yuen Wai (LT/HYW) BCP, cross-boundary traffic at the LMC BCP would be greatly reduced. The applied use would be a way to utilise land resource to meet the needs for container vehicle park in the interim. The application was also in line with the Town Planning Board Guidelines No. 13E (TPB PG-No. 13E) in that despite the Site was located in a Category 4 area, it was located close to LMC BCP and could be favourably considered; and
- (f) the hardship experienced by the cross-boundary transport sector due to the economic impact from the coronavirus should also be considered. The applicant was willing to accept a shorter approval period if the Board decided to approve the application.

[Mr Philip S.L. Kan left the meeting at this point.]

51. As the presentations from PlanD and the applicant's representatives had been completed, the Chairperson invited questions from Members.

52. The Chairperson and some Members raised the following questions to PlanD's

representative:

- (a) whether there was sufficient land in San Tin to meet the demand for container vehicle park;
- (b) what the 'existing use' of the site was when the IDPA plan for the area was first published in 1990;
- (c) noting that three planning applications (No. A/YL-ST/553, 554 and 558) for similar port-backup uses adjacent to the Site were yet to be considered by the RNTPC, whether those applications were submitted by the applicant of the current review application;
- (d) the background of approving previous application No. A/YL-ST/113 on the Site;
- (e) whether the nearby SRs as mentioned by EPD were domestic dwellings; and
- (f) whether the Site was the subject of planning enforcement action.

53. Miss Winnie B.Y. Lau, DPO/FSYLE, with the aid of some PowerPoint slides, made the following responses:

- (a) the Site fell within the Category 4 areas designated in the TPB PG-No. 13E where application for open storage and port-backup uses would normally be rejected except under exceptional circumstances. In contrast, such uses within Category 1 and 2 areas would be more favourably considered. One of the major purposes of the TPB PG-No. 13E was to channelise open storage and port-backup uses to suitable sites and limit the impact of those uses on the surrounding areas. There were a number of sites designated as Category 1 and 2 areas in San Tin and Ngau Tam Mei areas which were close to the LMC BCP and some vacant sites could still be found in those areas. On the other hand, the amount of cross-boundary container vehicle traffic utilising LMC BCP had also decreased in recent years;

- (b) according to survey records taken in 1990, vacant pigsties, storage for home furniture and ponds were found on the Site. The temporary container vehicle park use under application could not be considered as an 'existing use' tolerated under the Notes of the OZP;
- (c) applications No. A/YL-ST/553, 554 and 558 scheduled for consideration by the RNTPC on 20.3.2020 were submitted by the same agent. The sites of those applications had the same owner as the Site. There was no ready information at the meeting to confirm if the applicants of those applications were same as the current one;
- (d) previous application No. A/YL-ST/113 for temporary container trailer park covering a smaller site (about 2643.7 m²) was approved with conditions by the RNTPC on 17.3.2000 for a period of three years when the site was still zoned "Residential (Group D)" ("R(D)") on the approved San Tin OZP No. S/YL-ST/2. The application was approved mainly on the grounds that it was generally in line with the then TPB PG-No. 12B. Subsequently, taken into account the findings of the "Study on the Ecological Value of Fish Ponds in Deep Bay Area", the Site and the surrounding areas were rezoned to "OU(CDWRA)" on 7.7.2000. As such, the planning circumstances of the previous approved application were not the same as the current application;
- (e) based on observations in a recent site inspection, the structures related to SRs as identified by EPD appeared to be used for domestic purpose; and
- (f) an Enforcement Notice (EN) was issued against the container vehicle parking and petrol filling activities at the Site on 7.3.2019. However, the unauthorised development had not discontinued.

54. Some Members raised the following questions to the applicant's representatives:

- (a) whether the applicant was the owner of the Site and noting that the Site was subject to enforcement action, whether the container vehicle park and petrol filling facility were still in operation; and

- (b) whether there was more information regarding the shipyard use as mentioned by the applicant.

55. Mr Raymond Y.H. Leung, the applicant's representative, made the following responses:

- (a) the applicant was a tenant of the Site. The Site was currently operating as a temporary container vehicle park and providing rental parking on a monthly basis. Regarding the petrol filling activity at the Site as mentioned in the EN, it was not illegal and quite common for open storage and port-backup sites to have fueling facility to support the operation of heavy mechanical vehicles used for loading of goods. Notwithstanding that, the current application did not involve any fueling facility. If the application was approved and fueling activities were found at the Site, the Planning Authority could take enforcement action against it; and
- (b) he had no information in hand regarding the history of the former shipyard near the Site.

56. As Members had no further question, the Chairperson 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 and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representative and the applicant's representatives for attending the meeting. They all left the meeting at this point.

[Mr Ivan C.S. Fu and Mr K.K. Cheung left the meeting during the Q&A session.]

Deliberation Session

57. Members generally agreed that there was no strong justification to depart from the RNTPC's decision.

58. After deliberation, the Board decided to reject the application on review for the following reason:

“ the proposed development is not in line with the planning intention of the “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” zone, which is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.”

Tuen Mun & Yuen Long West District

Agenda Item 6

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-PN/58

Temporary Crops and Vegetables Collection Station for a Period of 3 Years and Filling of Land in “Agriculture” Zone, Lot 74 (Part) in D.D.133, Nim Wan Road, Ha Pak Nai, Lau Fau Shan, Yuen Long

(TPB Paper No. 10619)

[The item was conducted in Cantonese.]

59. Members noted that a set of replacement pages, reflecting the rescheduled meeting date and its corresponding revisions, was dispatched to Members prior to the meeting.

Presentation and Question Sessions

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

Mr David Y.M. Ng	-	District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLW)
Mr Tang Wai Cheung	-	Applicant
Mr Cheng Wai Kwan]	Applicant's representatives
Mr Li Cheuk Wan]	

61. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review application.

62. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TM&YLW briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10619.

63. The Chairperson then invited the applicant and his representatives to elaborate on the review application. Mr. Tang Wai Cheung, the applicant, and Mr Cheng Wai Kwan, the applicant's representative and the village representative of Ha Pak Nai Tsuen, made the following main points:

- (a) in 2011, the village representative of Ha Pak Nai proposed a rehabilitation of agricultural land scheme for villagers to improve the daily living of local farmers. To support the proposed scheme, the applicant, who was the land owner of the site, proposed a nominal rental fee of one dollar for the village representative to use the land and provided a paved loading/unloading area to facilitate the trading of the harvested crops at the site in order to help the farming industry in Ha Pak Nai;
- (b) the Government should support agricultural activities in Ha Pak Nai as it would help improve the current unpleasant environment;

- (c) since 2012, some villagers had started farming in Ha Pak Nai. The site was used by villagers for vegetables collection station since then. Although there was an existing vegetables collection centre operated by the Ha Tsuen Vegetable Marketing Co-operative Society Limited which was located 55m south of the site, that centre was usually fully occupied and farmers were unable to load/unload crops to and from vehicles at the same spot. Another vegetables collection centre was located about 4 km away north of the site which was too far from Ha Pak Nai, and villagers had difficulties to deliver their crops there for sale. Furthermore, the wholesale price of the farm products was set at low level in the existing vegetables collection centre. As the crops produced by local farmers were of premium quality, it was expected that a better selling price could be set so that the villagers could make a living as being farmers; and
- (d) only a few parking spaces were needed for trading of farm products. Land filling of part of the site was to prevent the collected crops and vegetables from getting dirty with mud and sands. The area of the site could be reduced if the Board considered it too extensive. The application was not intended to use the site for car parking purpose but for trading of crops and farm products only.

64. As the presentations of PlanD's representative, the applicant and applicant's representative had been completed, the Chairperson invited questions from Members.

65. A Member raised the following questions:

- (a) whether planning application was required for vegetables collection station within "AGR" zone; and
- (b) the current zoning of the two existing crops and vegetables collection centres and whether they were covered by planning permissions.

66. Mr David Y.M. Ng, DPO/TM&YLV, made the following responses:

- (a) according to the “Definition of Terms/Broad Use Terms Used in Statutory Plans”, ‘agricultural use’ meant any land used for the growing of crops and plants, and rearing of animals and fish, including on-farm domestic structures, which was always permitted within the “AGR” zone of the Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP). Notwithstanding that, planning permission was required for vegetables collection centre. Reference could be made to planning application No. A/YL-KTS/817 for temporary vegetables collection station for a period of 3 years in Pat Heung, Yuen Long which was approved by the RNTPC in March 2019; and
- (b) there were two existing vegetables collection centres in the area. The one located to the north of the site near Sheung Pak Nai fell within an area zoned “Coastal Protection Area” while the one located to the south at Ha Pak Nai fell within an area zoned “AGR” on the approved Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/9. As the two vegetables collection centres which were in existence immediately before the first publication in the Gazette of the notice of the interim development permission area plan for the area, no planning permission was required for such uses. According to the Notes of the OZP for “AGR” zone, vegetables collection station was neither a Column 1 nor Column 2 use. As such, the applicant could only apply for temporary use (up to a maximum period of 3 years) for vegetables collection station within the zone.

67. In response to Members’ enquiries on the current farming situation in Ha Pak Nai, the reasons why the site was paved and the need for the crops and vegetables collection station, Mr Cheng Wai Kwan, the applicant’s representative, made the following main points:

- (a) there was about 30 people in Ha Pak Nai working in the farming industry. Most of the land was for growing vegetables, fruit trees and rearing of fish; and
- (b) the aerial photo of 2012 showed that the site and its vicinity were covered by vegetation because lots of fruit trees were planted by villagers who believed that they could receive more compensation on active farming land when land

was acquired for development. After realizing that there was no land acquisition, no one continued to maintain those fruit trees. Recently, some retired villagers decided to practice farming in the area. To facilitate the farming industry, a crops and vegetables collection station was required. The station was temporary in nature and only a few car parking spaces for loading/unloading were needed. No structure would be erected within the site.

68. The Chairperson and some Members had the following questions:

- (a) whether planning application was still necessary if there was no structure to be erected within the site for crops and vegetables collection station; and
- (b) whether planning application was required if only trading of crops and vegetables activity took place at the site.

69. Mr David Y.M. Ng, DPO/TM&YLW responded that in general, crops and vegetables collection station would be a covered structure with some utilities including platform scale for weight measurement of crops, a notice board showing the wholesale prices of vegetables and a table for clerical works. For the applied use of crops and vegetables collection station with car parking spaces and filling of land in “AGR” zone, planning application would be required. Even if only trading of crops and vegetables activity took place at the site without involving filling of land, similar to application No. A/YL-KTS/817 mentioned above for temporary vegetables collection station, planning permission was required.

70. A Member noted that the applicant had suggested reducing the application site area and questioned whether resubmission of planning application was required. Mr David Y.M. Ng, DPO/TM&YLW, replied that the assessments and planning considerations of the application were based on the proposal provided by the applicant. If there was a substantial change in the content of the proposal, a fresh application should be submitted to the Board for consideration.

71. The Chairperson, having noted that AFCD had raised concern on the justifications for the proposed paved area and filling of land of about 600m², enquired on the area required for the operation of the temporary crops and vegetables collection station. Mr Tang Wai Cheung, the applicant, replied that according to his experience, the site should be paved with access that could allow vehicles to load/unload crops for trade. Mr Cheng Wai Kwan, the applicant's representative, also stated that only one loading/unloading area was needed for the crops and vegetables collection station. However, there was no turning space for vehicles in the area. The paved area within the site could also serve as a vehicle turning bay for improving traffic in the area and could benefit the villagers as well. The paved portion was covered by a thin layer of asphalt which could easily be removed.

72. A Member enquired on the use of the site for the rest of the day after trading of crops and vegetables in the morning. Mr Cheng Wai Kwan, the applicant's representative, replied that the site would remain vacant after the completion of trading activities in the morning.

73. A Member asked whether the site would be used for parking of vehicles and whether there were car parking uses in the vicinity. Mr. David Y.M. Ng, DPO/TM&YLW, replied that the site was the subject of planning enforcement actions involving unauthorized development of car park and filling of land in 2018 and 2019 respectively. For the unauthorized filling of land, Enforcement Notice was issued on 27.5.2019 requiring the discontinuation of the filling of land and Reinstatement Notice was issued on 27.6.2019 requiring reinstatement of the concerned land. For car parking uses in the vicinity, there was no planning application for such use within the same "AGR" zone. If car parking uses were found, they were mostly suspected unauthorized developments subject to enforcement action by the Planning Authority.

74. Regarding the operation details, some Members raised the following questions:

- (a) the differences between the crops and vegetables collection station proposed by the applicant and the two existing vegetables collection centres;
- (b) whether the two existing vegetables collection centres were in operation; and

- (c) whether villagers of Ha Pak Nai were members of the existing vegetables collection centre at Ha Pak Nai

75. Mr Cheng Wai Kwan, the applicant's representative, made the following responses:

- (a) the two existing vegetables collection centres were operated by a co-operative society. The Director of Agriculture, Fisheries and Conservation was appointed as the Registrar to register and regulate the co-operative society. All the crops and vegetables from the collection centres would be marketed in the Vegetable Marketing Organization (VMO). VMO provided trading facilities and would charge wholesalers a commission fee for their services. The wholesale price of the crops and vegetables was usually low even if the crops produced by the villagers were organic with higher quality. As for the proposed crops and vegetables collection station under application, there would be no specific operator. The site would be opened to all farmers for crops and vegetables trading;
- (b) the two existing vegetables centres in Sheung Pak Nai and Ha Pak Nai were still in operation. However, the usage of the one in Sheung Pak Nai was low as villagers in that area considered that they could not earn a living as being farmers. The situation of Ha Pak Nai was better as flat land which was more suitable for farming could be found in the area; and
- (c) all members of the vegetable marketing co-operative society at Ha Pak Nai were Ha Pak Nai villagers. However, it was difficult for new comers/villagers to join the society.

76. A Member raised concern on the traffic issue including the lack of sufficient space for vehicles to turn around near the existing crops and vegetables collection centre. Mr David Y.M. Ng, DPO/TM&YLW, explained that the centre only operated in the morning and there would be no operation in the afternoon. The site could be accessed from Lau Fau Shan through Deep Bay Road and Nim Wan Road via a local track. Relevant government departments were now exploring the possibility of undertaking road widening scheme in the area.

77. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representative, the applicant and his representatives for attending the meeting. They all left the meeting at this point.

[Mr Stephen H.B. Yau left the meeting during the Q&A session.]

Deliberation Session

78. The Chairperson remarked that filling of land with hard paved materials within "AGR" zone should be carefully considered. DAFC also raised concern on whether the proposed paved area and filling of land of about 600m² was justifiable. After listening to the applicant's presentation, it would appear that the applicant was just after a piece of vacant land to facilitate trading of crops and vegetables by anybody interested rather than planning for a crops and vegetables collection station with proper management. Members generally agreed that the demand for a properly operated collection station was yet to be established and there was no strong ground to depart from the RNTPC's decision.

79. A Member expressed that Ha Pak Nai was a remote area and it was difficult to make a living due to lack of economic activities. Traffic was another concern as the local roads were narrow without sufficient manoeuvring space. The Member was sympathetic toward the farmers of Ha Pak Nai as new farmers were unable to join the co-operative society of the existing crops and vegetables collection centre.

80. The Chairperson noted Member's concerns on the need for road improvement in the area, and suggested that the issue would be conveyed to TD for follow up. Members agreed.

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

“(a) the proposed development is not in line with the planning intention of the

“Agriculture” (“AGR”) zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission to merit a departure from the planning intention, even on a temporary basis;

- (b) the applicant fails to demonstrate that the proposed development would not generate adverse landscape impact on the surrounding areas; and
- (c) 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 which will result in a general degradation of the rural environment of the area.”

Agenda Item 7

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-TT/480

Temporary Vehicle Repair Workshop for a Period of 3 Years in “Other Specified Uses” annotated “Rural Use” Zone, Lot 1153 RP (Part) in D.D. 119 and Adjoining Government Land, Pak Sha Tsuen, Yuen Long

(TPB Paper No. 10620)

[The item was conducted in Cantonese.]

82. Members noted that a set of replacement pages, reflecting the rescheduled meeting date and its corresponding revisions, was dispatched to Members prior to the meeting.

Presentation and Question Sessions

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

Mr David Y.M. Ng - District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YLW)

Mr Siu Cheung Tung - Applicant

84. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representative to brief Members on the review application.

85. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TM&YLW, PlanD, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10620.

86. The Chairperson then invited the applicant to elaborate on the review application. Mr Siu Cheung Tung, the applicant, made the following main points to address the rejection reasons:

- (a) as the proposed vehicle repair workshop was temporary in nature, there was no reason for not being in line with the planning intention of the "Other Specified Uses" annotated "Rural Use" zone; and
- (b) the proposed use would not generate adverse environmental impact as the crude oil collected from the vehicle repair workshop would be recycled and other solid waste would be delivered to landfill site for disposal. Also, landscaping, i.e. tree planting, had been provided within the site.

87. As the presentations of PlanD's representative and the applicant had been completed, the Chairperson invited questions from Members.

88. In response to the Chairperson's enquiry, Mr Siu Cheung Tung stated that the current vehicle repair workshop at the site was the only workshop under his operation.

89. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representative and the applicant for attending the meeting. They both left the meeting at this point.

Deliberation Session

90. Members noted that the government representative had explained clearly the planning considerations regarding the application, and had considered the points made by the applicant at the meeting. Members generally considered that there was no strong justification to warrant a departure from the RNTPC's decision.

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

- “(a) the development is not in line with the planning intention of the “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) zone which is primarily for the preservation of the character of the rural area. No justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (b) the development is not in line with the Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone’ (TPB PG-No. 38) in that the applicant fails to demonstrate that the development would not generate adverse landscape impact on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “OU(RU)” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.”

Agenda Item 8

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/TM-SKW/104

Temporary Barbecue Area for a Period of 3 Years in “Green Belt” Zone, Lot 206 RP in D.D. 374 and adjoining Government Land, So Kwun Wat, Tuen Mun
(TPB Paper No. 10636)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

Mr David Y.M. Ng	-	District Planning Officer/Tuen Mun & Yuen Long West (DPO/TM&YWL)
Ms Chung Yuk Ying	-	Applicant
Mr Li Kin Fung]	Applicant’s representatives
Ms Chan Kwai Lan]	

93. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD’s representative to brief Members on the review application.

94. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TM&YWL, PlanD, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10636.

95. The Chairperson then invited the applicant and the applicant’s representatives to elaborate on the review application. Ms Chung Yuk Ying, the applicant, said that she intended to clear up the site for barbecue area so as to keep snakes away and to prevent

dumping activities on her own land. She further stated that she would exclude government land from the application site and confine it to the land she owned.

96. As the presentations of PlanD's representative and the applicant had been completed, the Chairperson invited questions from Members.

97. Some Members raised the following questions:

- (a) whether the applicant was aware that the site was zoned "Green Belt" ("GB") when she purchased the land and whether the land was purchased through estate agency;
- (b) whether the barbeque area would be operated by herself, whether she would reside at the site and the necessity for erection of 5 containers within the site;
- (c) the history of the land use of the site as the aerial photos showed that the landscape features thereat had been changed over years; and
- (d) whether the paved area surrounding the site as shown in the aerial photos was government land or private land and whether the structures within the "GB" zone were unauthorized development.

98. Ms Chung Yuk Ying, the applicant, made the following responses:

- (a) she was not aware that the site was zoned "GB" when she purchased the land in 2017. She had resided in the area for a long time and she purchased the land direct from the previous land owner; and
- (b) the barbeque area would be a gathering place for her family and friends. As her family had more than 60 members to use the site, some staff was needed to maintain the area. She also confirmed that she would not reside at the site.

99. Mr David Y.M. Ng, DPO/TM&YLW, PlanD, responded that:

- (a) as shown in the aerial photos taken in 1993, 2015 and 2016, the site was covered with vegetation. There was a change in land use in 2017 and the site and its adjoining area were subject to planning enforcement action taken by the Planning Authority. Enforcement Notice (EN) was issued on 9.5.2018 requiring the discontinuation of the unauthorised development (UD). Since the UD had not been discounted upon expiry of the EN, the EN recipients were prosecuted and convicted on 26.6.2019; and
- (b) some of the paved land around the site was privately owned and some was government land. Whether the structures within the “AGR” zone were considered as UD would depend on their nature of use. ‘Agricultural use’ and ‘on-farm domestic structures’ were always permitted within the “GB” zone of the OZP. Also, if the structures were considered as ancillary to the agricultural use, they were always permitted within the “GB” zone.

100. In response to a Member’s query on whether eating place at the site in 2017/18 was under her operation, the applicant said that she operated a canteen located to south of the site in old Castle Peak for over 20 years.

101. The Chairperson asked whether barbeque spot was a Column 2 use which might be permitted with or without conditions on application to the Board according to the Notes of the “GB” zone. In response, Mr David Y.M. Ng, DPO/TM&YLW, explained that according to the Notes of the “GB” zone, ‘barbecue spot’ under Column 1 was always permitted. However, according to the “Definition of Terms/Broad Use Terms Used in Statutory Plans” (“DOT”), ‘barbecue spot’ referred to any place where meat and other food were roasted or broiled on a spit over an open fire for consumption on the spot, which was for the use and enjoyment of the general public. It excluded barbecue sites which were privately owned and/or commercially operated. Planning application was required for barbecue area which was privately owned.

102. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further

deliberate on the review application and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representative, the applicant and the applicant's representatives for attending the meeting. They all left the meeting at this point.

[Dr F. C. Chan left the meeting during the Q&A session.]

Deliberation Session

103. The Chairperson said that according to the "DOT", "barbecue spot" excluded barbecue sites which were privately owned and/or commercially operated. For "GB" zone, the running of a commercially operated barbecue site serving members of public would in itself require careful consideration, let alone the running of a barbecue site mainly for private gatherings among family members and friends. Members were generally of view that there was no major change in the planning circumstances since the consideration of the subject application by the RNTPC and there was no ground to depart from the RNTPC's decision.

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

- “(a) the proposed use is not in line with the planning intention of the “Green Belt” (“GB”) zone, which is 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 is a general presumption against development within this zone. No strong justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the proposed use is not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the applicant fails to demonstrate that the proposed use would not generate adverse landscape impact on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for

similar applications within the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.”

Agenda Item 9

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-TT/484

Proposed House (New Territories Exempted House - Small House) in “Agriculture” and “Village Type Development” Zones, Lot 3090 S.B in D.D. 120, Tin Liu Tsuen, Yuen Long (TPB Paper No. 10629)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

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

Mr David Y.M. Ng	-	District Planning Officer/ Tuen Mun & Yuen Long West (DPO/TM&YWL)
Mr Wu Wai Shing	-	Applicant’s representative

106. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD’s representative to brief Members on the review application.

107. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TM&YWL, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10629.

108. The Chairperson then invited the applicant’s representative to elaborate on the

review application. Mr Wu Wai Shing, the applicant's representative, made the following main points:

- (a) the site, owned by the applicant, straddled two zones where land within the "Village Type Development" ("V") zone was too small for building a small house whilst only 13.2m² of the footprint of the small house would be within the "Agriculture" zone;
- (b) there were a number of small house developments in the surrounding area. Thus, small house development within the site was considered in line with the planning intention of the "AGR" zone;
- (c) the 2006 Population By-census data was outdated and should not be used in determining whether there was a general shortage of land in meeting the demand for Small House in the "V" zones of Tin Liu Tsuen and Sham Chung Tsuen; and
- (d) due to the high property prices in the urban area, indigenous villagers such as the applicant intended to move back to the New Territories. As a result, there was an increasing demand for small house but there was a lack of land for village house development. In addition, it was impossible to acquire land within the "V" zone as the available land was owned by Tso/Tong, developers or other individuals.

109. As the presentations of PlanD's representative and the applicant's representative had been completed, the Chairperson invited questions from Members.

110. As Members had no question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representative and the applicant's representative for attending the meeting. They both left the meeting at this point.

Deliberation Session

111. Members noted that the application did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted Houses/Small House in New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zones, and there was no major change in the planning circumstances since the consideration of the application by the RNTPC. Members generally considered that there was no reason to depart from the decision of RNTPC and the review application should be rejected for the same reasons.

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

- “ (a) the proposed development is not in line with the planning intention of the “Agriculture” 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. There is no strong planning justification provided in the submission to justify a departure from the planning intention;
- (b) the proposed Small House development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zones of Tin Liu Tsuen and Sham Chung Tsuen; and
- (c) land is still available within the “V” zones of Tin Liu Tsuen and Sham Chung Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zones for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

Agenda Item 10

[Open Meeting]

Request for Deferment of Review of Application No. A/TM/530

Columbarium Use in “Government, Institution or Community” Zone, Lot 2011 (Part) in D.D.

132, Tuen On Lane, Tuen Fu Road, Fu Tei, Tuen Mun

(TPB Paper No. 10637)

[The item was conducted in Cantonese.]

113. The Secretary reported that the application was for columbarium use and the following Members had declared interests on the item:

Mr Lincoln L.H. Huang]	being members of the Private
Mr Ivan C.S. Fu]	Columbaria Appeal Board (PCAB);
Mr Sunny L.K. Ho]	
Mr H.W. Cheung	-	being a member of the Private Columbaria Licensing Board (PCLB);
Mr K.K. Cheung	-	his firm being the legal advisor of the PCLB; and
Mr Alex T.H. Lai	-	being a past member of the PCAB, and his firm being the legal advisor of the PCLB.

114. Members noted that Mr Ivan C.S. Fu, Mr K.K. Cheung and Mr Alex T.H. Lai had already left the meeting. As the interests of Mr Lincoln L.H. Huang, Mr Sunny L.K. Ho and Mr H.W. Cheung were indirect, Members agreed that they could stay in the meeting.

115. Members noted that the applicant’s representative requested on 18.2.2020 deferment of the consideration of the review application for two months so as to allow time for preparation of a planning review report, a quantitative risk assessment and responses to

address departmental and public comments. It was the first time that the applicant requested deferment of the review application.

116. 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 needed more time to prepare further information in response to departmental comments, the deferment period was not indefinite, and that the deferment would not affect the interests of other parties.

117. After deliberation, the Board agreed to defer a decision on the review application, as requested by the applicant, pending the submission of further information (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 FI from the applicant. If the FI submitted by the applicant was not substantial and could be processed within a shorter time, the review 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 preparation of submission of FI, and no further deferment would be granted unless under very special circumstances.

Sai Kung & Islands District

Agenda Item 11

[Open Meeting]

Request for Deferment of Review of Application No. A/SK-CWBN/49

Proposed House and the associated Excavation of Land in "Green Belt" Zone and an area shown as 'Road', Lots 330, 331 RP (Part), 332 S.B and 333 S.B in D.D. 225, Pak To Avenue, Clear Water Bay, Sai Kung

(TPB Paper No. 10639)

[The item was conducted in Cantonese.]

118. The Secretary reported that the application site was located in Clear Water Bay North and Mr David Y.T. Lui had declared an interest on the item for co-owning with spouse

two houses in the Clearwater Bay area. Members noted that Mr Lui had tendered an apology for being unable to attend the meeting.

119. Members noted that the applicant's representative requested on 14.2.2020 deferment of the consideration of the review application for three months so as to allow time to consult relevant departments and preparation of further information (FI) to address departmental comments on traffic and landscape aspects. It was the second time that the applicant requested deferment of the review application and the applicant needed more time for preparation of FI.

120. 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 needed more time to prepare further information in response to departmental comments, the deferment period was not indefinite, and that the deferment would not affect the interests of other parties. Notwithstanding the above, as set out in TPB PG-No. 33, normally the applicant would be given two months for preparation of submission of FI. In that regard, if the applicant's request for deferment was acceded to, a deferment period of two months, instead of three months sought, should be allowed and the applicant might apply for further deferment if necessary.

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

Agenda Item 12

[Open Meeting]

Consideration of Further Representations No. F1 to F6 on Proposed Amendment to the Draft Hebe Haven Outline Zoning Plan No. S/SK-HH/7 Arising from the Consideration of Representations and Comments on the Draft Outline Zoning Plan and Submission of the Draft Hebe Haven Outline Zoning Plan No. S/SK-HH/7A under Section 8 of the Town Planning Ordinance to the Chief Executive in Council for Approval
(TPB Paper No. 10640)

[The item was conducted in Cantonese.]

122. The Secretary reported that the amendment to the draft Hebe Haven Outline Zoning Plan (OZP) No. S/SK-HH/7 mainly involved reverting the zoning of a site south of Nam Wai (i.e. Amendment Item C) from “Residential (Group C)5” (“R(C)5”) back to “Green Belt” (“GB”) to partially meet representations, including the representation submitted by Ms Mary Mulvihill (R6/C1). The following Members had declared interests on the item for affiliation with Ms Mulvihill:

Mr K.K. Cheung]	their firm hiring Ms Mary Mulvihill on a
Mr Alex T.H. Lai]	contract basis from time to time.

123. Members noted that Messrs K.K. Cheung and Alex T.H. Lai had already left the meeting.

124. The Secretary briefly introduced the TPB paper No. 10640 (the Paper). On 20.12.2019, after consideration of the representations and comments on the draft Hebe Haven OZP No. S/SK-HH/7, the Town Planning Board (the Board) decided to uphold/partially uphold 504 representations by reverting the zoning of the site south of Nam Wai (i.e. Amendment Item C) from “R(C)5” back to “GB” with corresponding deletion of Remarks for the “R(C)5” sub-zone under the Notes of the OZP.

125. On 17.1.2020, the proposed amendment to the draft OZP reflecting the above was exhibited for public inspection under section 6C(2) of the Town Planning Ordinance (the

Ordinance) and a total of 11 submissions were received. Amongst them, five were made with identity information missing/incomplete and should be treated as not having been made. A list of the remaining six further representers was at Annex II of the Paper.

126. Pursuant to section 6D(1) of the Ordinance, any person, other than that who had made any representation or comment and after consideration of which the proposed amendments had been made, might make further representation (FR) to the Board in respect of the proposed amendment. Among the six FRs received during the three-week exhibition period, four (F1 to F4) were submitted by the original representers (R5, R25, R63 and R474). Their representations, among others, were considered by the Board on 20.12.2019, and the Board decided to propose amendment to the draft OZP to partially meet their representations. One FR (F5) raised objection to the original Amendment Item A, and the remaining FR (F6) indicated objection to all amendment items but the comments stated in the submission were on traffic impact of the proposed residential development. They were not related to the proposed amendment to the draft OZP exhibited on 17.1.2020. Therefore, F1 to F6 were considered as invalid and should be treated as not having been made in accordance with section 6D of the Ordinance. As a result, there were no valid FRs received during the exhibition period.

127. As no valid FR was received, in accordance with section 6G of the Ordinance, the draft OZP should be amended by the proposed amendment. The draft OZP (incorporating the amendment published on 17.1.2020) was ready for submission to the Chief Executive in Council (CE in C) for approval.

128. After deliberation, the Board:

- (a) noted, pursuant to sections 6D(2)(b) and 6D(3)(b) of the Ordinance, the five submissions with the required identity information missing/incomplete were considered as invalid and hence disregarded;
- (b) considered F1 to F4, which were submitted by the original representers, and F5 and F6, which were not related to the proposed amendment, were invalid and should be treated as not having been made under section 6D of the Ordinance;

- (c) noted that no valid FR to the draft OZP was received and the draft OZP should be amended by the proposed amendment in accordance with section 6G of the Ordinance;
- (d) agreed that the draft Hebe Haven OZP No. S/SK-HH/7A and its Notes at Annexes IV and V of the Paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (e) endorsed the updated Explanatory Statement (ES) for the draft Hebe Haven OZP No. S/SK-HH/7A at Annex VI of the Paper as an expression of the planning intention and objectives of the Board; and
- (f) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 13

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

129. There being no other business, the meeting was closed at 5:00 pm.