

**Minutes of 878th Meeting of the
Town Planning Board held at 9.00am on 9.2.2007**

Present

Dr. Peter K.K. Wong

Vice-Chairman

Dr. Greg C.Y. Wong

Professor Nora F.Y. Tam

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Professor David Dudgeon

Mr. Tony C.N. Kan

Professor N.K. Leung

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Principal Assistant Secretary (Transport)
Environment, Transport and Works Bureau
Ms. Ava Chiu

Director of Environmental Protection
Dr. Michael Chiu

Director of Lands
Mr. Patrick L.C. Lau

Director of Planning
Mrs. Ava Ng

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

Secretary

Absent with Apologies

Permanent Secretary for Housing, Planning and Lands
(Planning & Lands)
Mrs. Rita Lau

Chairperson

Mr. Michael K.C. Lai

Ms. Carmen K.M. Chan

Dr. Lily Chiang

Professor Peter R. Hills

Mr. Edmund K.H. Leung

Professor Bernard Vincent W.F. Lim

Ms. Maggie M.K. Chan

Mr. Felix W. Fong

Assistant Director(2), Home Affairs Department
Ms. Margaret Hsia

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Mr. C.T. Ling

Senior Town Planner/Town Planning Board
Ms. Teresa L.Y. Chu

Agenda Item 1

[Open meeting]

Confirmation of Minutes of the 876th Meeting held on 26.1.2007

[The meeting was conducted in Cantonese.]

1. The minutes of the 876th meeting held on 26.1.2007 were confirmed without amendment.

Agenda Item 2

[Open meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

- (ii) **Approval of Outline Zoning Plans (OZPs)**
2. The Secretary reported that on 30.1.2007, the Chief Executive in Council (CE in C) referred the following plans to the Board for amendment under s.12(1)(b)(ii) of the Town Planning Ordinance:
 - (a) Tung Chung Town Centre Outline Zoning Plan (OZP)No. S/I-TCTC/14; and
 - (b) Ma Tau Kok OZP No. S/K10/18
3. The referencing back of these OZPs was notified in the Gazette on 9.2.2007

Agenda Item 3

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/H8/377

Proposed Comprehensive Development Comprising ‘Office’, ‘Eating Place’, ‘Shop and Services’, and ‘Place of Recreation, Sports or Culture’ in “Comprehensive Development Area (1)” zone, 14-30 King Wah Road, North Point (TPB Paper No. 7754)

[The hearing was conducted in English.]

Presentation and Question Session

4. The Secretary said that the review application was submitted by Glory United Development Ltd. which was a subsidiary of Henderson Development Co. Ltd. The following Members had declared interests in this item:

Dr. Greg C.Y. Wong]	
Mr. Y.K. Leung]	being members of the Harbour-front Enhancement
Ms. Starry W.K. Lee]	Committee (HEC)
Mr. Leslie Chen]	
Prof. Bernard V.L.F. Lim	-	involved in organizing the conceptual design competition and relevant workshop for the eastern waterfront area
Dr. Daniel B.M. To	-	being a member of the Eastern District Council (EDC) who had been consulted on planning of the area
Mr. Raymond Chan]	having business dealings with the applicant who
Mr. Donald Yap]	was a subsidiary of Henderson Development Co. Ltd.

5. The Secretary advised that being members of the HEC and the EDC who did not have direct interest with this item, Dr. Greg C.Y. Wong, Ms. Starry W.K. Lee, Mr. Y.K. Leung, Mr. Leslie H.C. Chen, and Dr. Daniel B.M. To should be allowed in stay in the meeting. It was noted that Prof. Bernard V.L.F. Lim had tendered apologies for not being able to attend the meeting. Mr. Donald Yap and Dr. Daniel B.M. To had tendered apologies for absence for this item.

[Mr. Raymond Y.M. Chan left the meeting temporarily at this point.]

6. Ms. Christine Tse, District Planning Officer/Hong Kong (DPO/HK) of Planning Department (PlanD) and the following applicant's representatives were invited to the meeting at this point:

Mr. Phill Black]	
Mr. Shuki Leung]	
Mr. K.K. Sun]	Applicant's Representatives
Mr. Li Man-ying]	
Mr. Siu Sing-yeung]	

7. The Vice-Chairman extended a welcome and explained briefly the procedures of the review hearing. The Vice-Chairman then invited Ms. Christine Tse to brief Members on the background to the application. With the aid of a powerpoint presentation, Ms. Tse did so as detailed in the Paper and made the following main points:

- (a) the reasons of the Metro Planning Committee (MPC) to reject the proposed application for proposed comprehensive development comprising 'Office', 'Eating Place', 'Shops and Services' and 'Place of Recreation, Sports or Culture' on a site zoned "Comprehensive Development Area (1)" ("CDA(1)") on the North Point Outline Zoning Plan (OZP) on 17.11.2006. The proposed scheme consisted of a 43-storey office block (with a plot ratio (PR) of 15 and building height (BH) of 165mPD) at the southern part of the application site, and a 1-2 storey cultural/commercial/leisure and tourism-related uses complex at the northern part of the site;

[Mr. Leslie H.C. Chen and Prof. David Dudgeon arrived to join the meeting at this point.]

- (b) the justifications put forth by the applicant in support of the review application were summarized in paragraph 3 of the Paper;
- (c) departmental comments – the Chief Engineer/Major Works, Major Works Project Management Office, Highways Department (HyD) highlighted that the interface with the Central-Wan Chai Bypass (CWB)/Island Eastern Corridor Link (IECL) and Wan Chai Development Phase II (WDII) should be taken into account in the implementation of the proposal. Secretary for Environment, Transport and Works (SETW) and Project Manager/HK Island and Islands, Civil Engineering and Development Department (PM/HKI&I,

CEDD), had concern on the conflict the proposed development would had with the CWB and proposed harbour-front enhancement at the new North Point waterfront, while the footprint of the tunnel portal and CWB service road would encroach upon the northern portion of the site. Assistant Commissioner for Transport/Urban, Transport Department (AC for T/U, TD) had no further comment on the revised traffic impact assessment (TIA) but expressed similar reservation as the area under/north of IECL would be reserved for the construction of CWB;

- (d) 1 public comment was received during the statutory public inspection period from a Eastern District Council (EDC) Member, expressing concern on the development intensity and BH. The reduced development intensity for the Oil Street site (i.e. a PR below 10 and BH from 165mPD to 100mPD and 120mPD respectively), should be taken as reference. Given the poor air quality in North Point area, restrictions on PR and BH along the waterfront should be imposed to avoid wall effect or blockage of air flow; and
- (e) PlanD's view – not supporting the application as the applicant had not submitted information to address MPC's concern on adverse visual impact due to development intensity and BH given its waterfront location. There was increasing community concern on the intensity and BH of waterfront development. As the PR and BH height restrictions on the OZP were the maximum permissible under the OZP, it would be up to the applicant to demonstrate the acceptability of the development in terms of mix, scale, design and layout. In this context, there was insufficient information to demonstrate that the proposal, with a PR of 15 and BH of 165mPD, was in line with the Urban Design Guidelines (UDGL) and Harbour Planning Principles. It would result in adverse visual impact when viewed from Hung Hom and was unable to provide visual access from harbour to the hinterland. MPC's concern had been conveyed to the applicant when he applied under s12A (Y/H8/2) to include 'Flat' use in Column 2 of the Notes for the same site on 1.9.2006. The MPC considered that the development bulk of PR 8.1 (7.8 for domestic and 0.3 for non-domestic uses) for the schematic development under Y/H8/2 was excessive along the waterfront, and decided to ask PlanD to conduct a review of the development intensity and BH of the application site, taking into account the surrounding

developments and to prepare a planning brief. The MPC also agreed that the nearby Oil Street site should be subject to PR of 8.6, (6 for domestic and 2.6 for non-domestic uses), with stepped BH restrictions of 120mPD and 100mPD for residential and commercial developments respectively. The proposal for the Oil Street site was well received and supported by the Works and Development Committee of EDC. The development intensity and BH of the subject development was considered excessive and should be reviewed. Whilst the adjoining hotel development (approved by TPB in 2000 and lease modification already executed) was already under construction, the previous planning permission for office development for the subject site granted on 9.8.1996 (A/H8/262), was lapsed on 9.8.2002 and no lease modification had been granted. The current case, being a fresh application, should be assessed based on current planning circumstances and considerations.

8. The Vice-Chairman then invited the applicant's representatives to elaborate on the application. Mr. Phill Black. made the following main points with the aid of a powerpoint presentation:

OZP provision to prevail

- (a) the proposed office development, with a PR 15 and BH of 165mPD, was in line with provisions of the OZP. It should not be rejected on urban design and visual grounds as it was not appropriate for the administrative guidelines, including TPB's Vision Statement for Victoria Harbour and the UDGL promulgated in the Hong Kong Planning Standards and Guidelines (HKPSG), to take precedence over the statutory provisions under the "CDA(1)" zoning;
- (b) the "CDA(1)" zoning with its notes was in place since 2000 prior to the promulgation of the UDGL in the HKPSG in 2003. In fact, the North Point area was outside the view fans for ridgeline protection indicated in the HKPSG. Hence development in this area should not be subject to height restrictions, other than the OZP stipulations. Neither should reference be made to the Harbour Planning Principles of HEC, which was promulgated in 2006. As these guidelines were conceptual and broadbrush statements, they were not considered appropriate to be adopted for assessment of the

current case;

Permissible maximum plot ration and building height

- (c) the provisions under the OZP were intended to provide certainty for development. It was prudent to follow the parameters stipulated, including the maximum permissible PR of 15 and BH of 165mPD, in assessing the planning applications. In addition, the remarks of the notes of “CDA(1)” zone allowed for bonus PR in accordance with Building (Planning) Regulations 22(1) or 22(2) and application for minor relaxation of the BH restriction;
- (d) it was unlikely for developers to submit proposals below the maximum development intensity;

Similar and previous permissions

- (e) a hotel development at the adjoining site at 15-17 Oil Street was approved with a PR of 15 and BH of 165mPD under the same zoning;
- (f) a previous permission (Application No. A/H8/262) for office development on the same site with the same development intensity was granted on 9.8.1996 with validity period extended;

Urban design merits and visual aspects

- (g) contrary to PlanD’s comments on the urban design impact, the applicant had demonstrated comprehensive efforts in improving the urban design of the proposed scheme, including:
 - (i) avoiding the wall effect by suitable building form and providing a stepped height profile;
 - (ii) maximization of visual and physical accessibility through setback along the street boundary, improved articulation of retail frontage, provision of passageway, design to allow sea breeze penetrating into the back street and modified building form to help air flow;
 - (iii) provision of wider waterfront promenade and passageway to facilitate pedestrian movement to the harbour;
 - (iv) provision of 2 low-rise cultural/commercial/leisure and tourism

complex in the northern part of the site for public enjoyment;

- (h) the bulk and orientation of the office block had taken account of the visual aspects including:
 - (i) setback of podium to reduce the wall effect along King Wah Road;
 - (ii) setback on the western side of the site to enhance visual permeability of the waterfront and air ventilation;
- (i) Architectural Services Department had no objection in view of the detailed design elements;

PlanD's photomontage

- (j) PlanD's photomontage in Plan A-5 in the MPC Paper, taken from a selected location along the 1km Hung Hom waterfront, was different from the 7 harbour vantage points identified in the UDGL. Also, the adjoining hotel was not included. The perspective would be different had the viewing location be shifted along the Hung Hom waterfront. It was hence not considered appropriate to be adopted as a basis for rejecting the subject application;

Public comment

- (k) the only public comment at the s17 stage from a EDC member might not be taken to represent the community view. As the informed public were aware of the previous approval and regarded the proposal as committed development, there were no local objections; and
- (l) as the Master Layout Plan (MLP) had adequately demonstrated the acceptability of the proposed scheme in terms of design and visual aspects, which was in line with the harbour planning principles, there was no justification to reject the application on design and visual grounds. It was unreasonable not to follow the maximum permissible PR and BH under the OZP in the consideration of the planning application.

9. Members sought clarification from Ms. Christine Tse on the following:

- (a) whether there were any similar cases where the maximum permissible

development intensity under the OZP was not applied for;

- (b) the development bulk of the adjoining hotel and the issue of fairness;
- (c) the purpose of the “CDA(1)” zoning given that the OZP had set out the maximum permissible PR and BH;
- (d) ways to resolve the possible conflict and interface with the future CWB and waterfront enhancement as highlighted by HyD and ETWB;
- (e) the basis for assessment of the design and visual impact of the current scheme; and
- (f) the traffic impact of the proposed scheme.

10. In response, Ms. Christine Tse made the following points:

- (a) she was not aware of similar case in the area with development intensity below the permissible maximum. However, the development intensity for the Oil Street site was reduced from a PR of 10.6 (gross)/11.7 (net) to a PR of 8.6 (net) and a BH from 165mPD to 100mPD and 120mPD respectively;
- (b) the adjoining hotel was approved with a permissible maximum PR of 15 and BH of 165mPD in 2000. As lease modification was executed and construction was in progress, this hotel project was not comparable to the subject application as its previous planning approval was lapsed in 2002 without lease modification;
- (c) the purpose of the “CDA(1)” zoning was to enable the TPB, through submission of a master layout plan (MLP), to scrutinize the development mix, design and layout of the development, taking into account various constraints in its surrounding areas. In this context, the zoning intention was to accord appropriate control over waterfront development in a comprehensive manner;
- (d) the possible interface with the future CWB could be resolved during the planning and implementation of the road project and the enhancement of North Point waterfront;

- (e) the assessment of the design and visual impact of the current scheme should be based on current planning circumstances with reference to prevailing guidelines in the HKPSG and the Harbour Planning Principles; and
- (f) TD had expressed concern on the traffic impact on junctions of the local network at the s16 stage. Subsequent to submission of the revised TIA for the review application, TD had no adverse comment on the traffic aspects.

11. Members sought clarification from the applicant's representatives on the following:

- (a) response to public comment received;
- (b) if there were limitations in PlanD's photomontage, whether additional images from a different part of the Hung Hom waterfront had been prepared by the applicant to elaborate on the visual impact;
- (c) whether the photomontage in the submission had indicated the impact on the ridgelines; and
- (d) any proposals to address the interface with the proposed tourism complex with the future road projects.

12. Mr. Phill Black's response was summarized as follows:

- (a) the public comment was from a EDC member but not the EDC itself. The Oil Street site was different from the subject application site as the former was a government site with more flexibility for adjustments, while the latter was on private land and at the stage of implementation;
- (b) the applicant had not undertaken a comprehensive visual impact assessment (VIA) for the site. Although there was no additional photomontage taken, the submission had provided the analysis of visual impact viewed from different parts along the Hung Hom waterfront;
- (c) as North Point was excluded from areas where preservation of ridgeline views and view corridors were recommended in the HKPSG, the application site should therefore not be subject to such controls. However, the primary function for this CDA project was the integration of the hinterland with its

waterfront promenade; and

- (d) only the tourism complex in the northern part of the site would be affected by the future CWB. The interface issues could be resolved during the detailed implementation of the road project by government.

13. Referring Members to paragraph 6.2 of the TPB Paper No. 7754, the Vice-Chairman said that the adjoining hotel was approved with a PR of 15 and BH of 165mPD under the same zoning in 2000. The lease was modified following the development proposal approved by the Board and the project was being implemented. As the planning history was not the same as the presently proposed development, the current application did not warrant the same considerations.

14. The Secretary supplemented that there were previous cases where developers did not fully utilize the PR allowed. In this context, the OZP had clearly stated that the development intensity was the maximum permissible and it should not be implied that such a development intensity must be granted by the TPB. The applicant had to demonstrate the acceptability of the proposal in terms of development mix, scale, design and layout through the submission of MLP.

15. A Member asked for the background of the previously approved scheme on the application site. Ms. Christine Tse explained that the site was previously zoned “OU (Comprehensive Redevelopment Area)” and “OU (Open Storage, Loading & Unloading Areas and Service Car Parking)” where comprehensive MLP for the zone was required. Application No. A/H8/241 for office development was rejected on 2.8.1996 on review as the MLP was inadequate to cover the adjoining lots in the same zones to enable comprehensive assessment. A revised MLP submitted under No. A/H8/262 was subsequently approved by MPC on 9.8.1996. The validity period was further extended, until the permission was lapsed on 9.8.2002, and no lease modification had been granted. Drawing a comparison with the adjoining hotel development which comprised a square block design and 100% podium site coverage with carpark along the waterfront, Mr. Phill Black reiterated that the proposal on the application site represented greater merits in design.

16. As the applicant’s representatives had no further comment to make and Members had no further question to raise, the Vice-Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board’s decision in due course.

The Vice-Chairman thanked the applicant's representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

17. A few Members raised the issue of fairness given that the adjoining hotel falling within the same zoning was approved with the maximum permissible PR and BH under the OZP and asked whether there were situations where the permissible PR was not fully utilized. They considered that considerations on design, mix and layout aspects could be quite subjective.

18. Other Members were generally not in support of the application and had the following views:

Urban design and visual aspects

- (a) while little could be done about the existing massive developments (including the adjoining hotel under construction) along the waterfront, it would still be prudent for the Board to ensure new schemes were developed at a reasonable scale with a view to enhancing the visual and design attributes of waterfront development;
- (b) there were concerns on the visual aspect as the bulk and height of the single 43-storey office block were excessive and massive, hence creating a wall effect along the waterfront;
- (c) reference should also be made to the average BH in the surrounding areas, instead of relying on the maximum achievable under OZP;
- (d) there was scope for the applicant to improve the building form and consider more innovative design with a view to reducing the overall mass and visual impact at this waterfront location. It was necessary to send a clear message to the applicant to encourage planning initiatives to enhance the visual quality of waterfront development;
- (e) the arguments on images from vantage points and distant mountain backdrop seemed to have little relevance. The crux of the issue was the adverse visual effect of the bulk and height of the proposed office tower on the

waterfront;

- (f) it was appropriate for the Board to take into account relevant considerations including current administrative planning guidelines in making an informed decision;

Additional information

- (g) while casting doubt on PlanD's photomontage, the applicant had not provided alternative photomontages or visual impact assessment to demonstrate the acceptability of the proposed scheme. There was no additional information and assessment to address the concerns raised by the MPC in relation to the BH and bulk of the proposed development on the subject site;

Statutory provision and administrative guidelines

- (h) the statutory provision in the OZP only set the broad planning framework based on which detailed planning was carried out. In assessing specific development schemes, it was appropriate to take into account relevant administrative guidelines and standards. It would be up to the Board to decide how much weight should be accorded to the guidelines;
- (i) the PR and BH as stipulated on the OZP only set out the maximum. The fact that the site was zoned "CDA(1)" and any proposed development had to be submitted to the Board implied that the maximum PR and BH were not a must;
- (j) the Board could revise the development intensity stipulated in the OZP based on reasonable assessment, one example being the Oil Street site;

Fairness

- (k) fairness might not be an issue in the present case as no lease modification had been granted to facilitate the office development previously approved by the Board, hence the existing development right under the industrial lease had not been compromised;
- (l) comparison should also be made with the Oil Street site, of which the development intensity and BH were reduced by the Board in November

2006;

- (m) the subject application was not comparable to the adjoining hotel development in terms of lease entitlement and stage of development;
- (n) as the previous planning approval had lapsed, the current case was a fresh application to be assessed in the light of prevailing planning circumstances and considerations; and

Others

- (o) the uncertainty of the development of the proposed tourism complex on the northern part, affected by future road project, might render the planning intention of the “CDA(1)” difficult to realize thus resulting in just an office tower in the southern part of the site.

19. The Secretary explained that consideration for the subject application was not entirely the same as the adjoining hotel development. The application site was under an industrial lease, under which only industrial use and carpark were allowed. Office development was not permitted as of right. Lease modification was required for office development subject to payment of premium. As the approval given in 1996 was lapsed, the subject application was taken as a new case to be considered based on prevailing circumstances. The PR and BH in the OZP were the maximum permissible, subject to submission of MLP and considerations on development mix, design and layout. The applicant was required to demonstrate how best to address MPC’s concerns. There were previous applications where maximum intensity under OZP were not utilized to its full and cases which were rejected by the Board on grounds of urban design. Mrs. Ava Ng supplemented that the hotel was approved in 2000 based on the considerations at that time. For the subject case, it was prudent to make reference to current guidelines and concepts taking into account changing circumstances.

20. Members generally agreed with the above views. As the applicant had not provided sufficient information to address the previous concerns, there was no strong justifications to deviate from MPC’s decision not to approve the application.

21. Members then went through the reason for rejection in the TPB paper and considered that the reason should be revised to highlight that the applicant had not submitted

sufficient information to demonstrate that the proposed development would not result in adverse visual impact on the waterfront.

22. After further deliberation, the Board decided to reject the application on review and the reason was there was insufficient information to demonstrate that the proposed development, with the proposed development intensity and building height, would not result in adverse visual impact on the waterfront.

[Prof. Paul K.S. Lam and Dr. Michael Chiu left the meeting at this point. Dr. Daniel B.M. To, Ms. Anna Kwong and Mr. Donald Yap arrived to join the meeting at this point. Dr. C.N. Ng and Mr. Tony C.N. Kan left the meeting temporarily at this point.]

Agenda Item 4

[Open meeting]

Request for Deferral of Section 16 Application No. A/H5/356

Comprehensive Commercial and Residential Development with the Provision of Government, Institution and Community Facilities and Public Open Space in “Comprehensive Development Area” zone,

Two Sites of Urban Renewal Authority’s Development Scheme at

Lee Tung Street and McGregor Street, Wan Chai

(TPB Paper No. 7764)

[The meeting was conducted in Cantonese.]

23. The Secretary advised that the application was submitted by Urban Renewal Authority’s (URA) and the application sites were located in URA’s Development Scheme at Lee Tung Street and McGregor Street, Wan Chai. The following members had declared interests in this item:

Mrs. Ava Ng as the Director of Planning]

Mr. Patrick L.C. Lau as the Director of Lands] being non-executive directors of the URA

Mr. Walter K.L. Chan]

Ms. Margaret Hsia - Being a co-opt member of the Planning,

as the Assistant Director (2) of
Home Affairs Department

Development and Conservation Committee of the
URA

Prof. Bernard V.W.F. Lim]

having current business dealings with the URA

Dr. Greg C.Y. Wong]

Mr. Michael K.C. Lai -

being a former non-executive director of the URA

24. However, as the application was for deferment of consideration involving no presentation or deliberation, Members agreed that the above members were allowed to stay. It was noted that Mr. Michael K.C. Lai, Ms. Margaret Hsia and Prof. Bernard V.W.F. Lim had tendered apologies for not being able to attend the meeting.

25. The Secretary tabled a written submission received from a group of residents and operators affected by the H15 project gathering outside the meeting venue during the meeting. She suggested and Members agreed that the submission would be incorporated in the paper to be considered by the Board in due course.

26. She then continued to present the Paper and said that the request was submitted by URA for deferral of consideration of the application to allow time to submit additional information to address departmental concerns.

27. After further deliberation, the Board decided to accept the request for deferment. Two months would be given to the applicant for preparation of submission of further information. The application would be submitted to the Board for consideration within 2 months upon receipt of further submission from the applicant. The rescheduled date should be adhered to and no further deferment should be granted except under very special circumstances.

[Dr. C.N. Ng and Mr. Tony C.N. Kan returned to join the meeting at this point.]

Agenda Item 5

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-HT/461

Temporary Open Storage of Used Electrical Appliances and Metal Wares for a Period of 3

Years in “Comprehensive Development Area” zone, Lots 721(Part), 731(Part), 732(Part), 733(Part), 734(Part), 735(Part), 736(Part), 737(Part), 754(Part), 755(Part), 756(Part) and 757(Part) in DD 125, Ha Tsuen, Yuen Long
(TPB Paper No. 7755)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

28. Mr. Donald Yap declared an interest in this item as he was the consultant of the firm representing one of the public commenters.

[Mr. Donald Yap left the meeting at this point.]

29. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD) and the applicant, Mr. Tang Chik-kit, were invited to the meeting at this point.

30. The Vice-Chairman extended a welcome and explained briefly the procedures of the review hearing. The Vice-Chairman then invited Mr. Wilson So to brief Members on the background to the application. With the aid of some plans, Mr. So did so as detailed in the Paper and made the following main points:

- (a) the reasons for rejection by the Rural and New Town Planning Committee (RNTPC);
- (b) the justifications put forth by the applicant in support of the review application as set out in paragraph 3 of the Paper;
- (c) departmental comments – the Director of Environmental Protection (DEP) had concerns about the continued storage of used electrical appliances causing potential soil and water pollution and traffic noise on nearby sensitive receivers. Director of Agriculture, Fisheries and Conservation considered the site and adjacent livestock structures could be rehabilitated for agricultural purposes;
- (d) 3 public comments were received during the public inspection period from land owners and private individual objecting on the ground of lack of

owner's consent. It was noted that the applicant had complied with the requirements for owner's consent/notification; and

- (e) PlanD's view – the applicant indicated that he applied for storage of metalware only with deletion of used electrical appliances to avoid soil contamination and noise pollution, and sought a shorter approval period of 12 months. Additional environmental mitigation measures were also proposed, including surface hard-paving, no operation between 6pm to 9am and on Sundays and public holidays, no workshop activities, a 2.5m peripheral screen fencing, and diversion of vehicles to the northern section of Ping Ha Road to avoid the majority of sensitive receivers along Ping Ha Road south. PlanD had no objection as the proposed storage of metal ware was not incompatible with the surrounding open storage and workshops. To address DEP's concern on storage of electrical appliances, the permission would be revoked if the site was not used for the applied use. Also, the additional environmental mitigation measures would be imposed as approval conditions. The applicant would also be advised to follow DEP's "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" (COP) to minimize possible environmental impacts.

31. In response to the Vice-Chairman, Mr. Tang Chi-kit confirmed he would accept the approval conditions if the case was approved. He made the following main points:

- (a) the electrical appliances on site had already been gradually removed;
- (b) he undertook not to use the site for storage of electrical appliances; and
- (c) he would comply with all the approval conditions.

32. Members sought clarification from Mr. Wilson So on the following:

- (a) there was concern on how to address EPD's reservation on storage of electrical appliances as the applicant would only be advised to follow the COP;
- (b) any alternative routing for drainage connection as the proposed channel on the drainage plan seemed to affect the nearby ponds; and

- (c) any recent site visit to ascertain the existing situation and whether future site inspection would be carried out only on compliant or conducted regularly.

33. In response, Mr. So replied as follows:

- (a) storage of uses not applied for would result in revocation of the planning permission and subject to enforcement action. Approval conditions were imposed to address EPD's concern while the applicant would be further encouraged to comply with EPD's COP to minimize possible environmental impacts;
- (b) the applicant would be required to submit and implement drainage proposal; and
- (c) comparing site photos taken in the s16 stage and during the recent site visit, the site condition had improved with clearance of some on-site electrical appliances. PlanD would conduct regular site inspection to ensure compliance of approval conditions and special inspection when compliant was received.

34. Mr. Tan Chik-kit supplemented with the following main points:

- (a) he would clear all the electrical appliances; and
- (b) the drainage plan was outdated. The surrounding areas were filled and levelled, hence there were no ponds in the vicinity.

Deliberation Session

35. The Vice-Chairman noted that with the proposed change in applied use and additional mitigation measures put forth by the applicant as well as approval conditions to resolve the previous concerns, consideration could be given to approve the application, subject to a shorter approval and compliance periods to monitor the fulfilment of approval conditions. Members agreed that the application could be approved.

36. After further deliberation, the Board decided to approve the application on review, for open storage of metal wares on a temporary basis for a period of 12 months until 9.2.2008, on the terms of the application as submitted by the applicant, subject to the following

conditions:

- (a) no night-time operation between 6:00p.m. and 9:00a.m. as proposed by the applicant was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays as proposed by the applicant was allowed on the site during the planning approval period;
- (c) no dismantling, repairing, melting, cleansing and workshop activities should be carried out on the site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) were allowed for the operation of the site at any time during the planning approval period;
- (e) the submission of landscape and tree preservation proposals within 3 months from the date of approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.5.2007;
- (f) in relation to (e) above, the implementation of landscape and tree preservation proposals within 6 months from the date of approval to the satisfaction of the Director of Planning or the Town Planning Board by 9.8.2007;
- (g) the submission of drainage proposals within 3 months from the date of approval to the satisfaction of the Director of Drainage Services or of the Town Planning board by 9.5.2007;
- (h) in relation to (g) above, the provision of drainage facilities as proposed within 6 months from the date of approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.8.2007;
- (i) the provision of 9-litre water type/3 kg dry powder fire extinguisher(s) in the site office(s) within 3 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 9.5.2007;
- (j) the provision of paving and fencing of the site within **3** months from the date of approval to the satisfaction of the Director of Planning or of the Town Planning Board by 9.5.2007;

- (k) if any of the above planning conditions (a), (b), (c) or (d) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) was not complied with by the above specified date, the approval hereby given should cease to have effect and should be revoked without further notice; and
- (m) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

37. The Board also decided to advise the applicant of the following:

- (a) resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (b) apply to the District Lands Office/Yuen Long (DLO/YL) for a Short Term Waiver for erection of structures on the site and consult DLO/YL regarding all the proposed drainage works outside the site boundary;
- (c) note the comments of the Chief Engineer/Mainland North, Drainage Services Department in paragraph 4.1.2 of the Paper to properly maintain all drainage facilities and rectify those facilities if they were found inadequate or ineffective during operation;
- (d) follow the environmental mitigation measures as recommended in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” as issued by the Director of Environmental Protection in order to minimize the potential environmental impacts on the adjacent area;
- (e) note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department in paragraph 4.1.4 in the Paper to clarify the land status and management/maintenance responsibilities of the access road leading to the site and to consult the relevant lands/maintenance authorities;
- (f) note the comments of the Chief Highways Engineer/New Territories West,

Highways Department in paragraph 4.1.5 of the Paper that his Office was not responsible for maintenance of the access track between the site and Ping Ha Road;

- (g) note the comments of the Chief Town Planner/Urban Design & Landscape in paragraph 4.1.6 of the Paper to allow sufficient clearance between the existing tree and stored materials in order to protect the aforesaid tree;
- (h) note the comments of the Chief Engineer/Development (2), Water Supplies Department in paragraph 10.1.10 of Annex A of the Paper to extend the inside services to the nearest suitable government water mains for provision of water supply to the site and to resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services to Water Supplies Department's standard; and
- (i) note the comments of the Chief Building Surveyor/New Territories West, Building Department in paragraph 10.1.8 of Annex A of the Paper that all building works were subject to compliance with the Buildings Ordinance. Authorized Person must be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

[Messrs. Donald Yap and Raymond Y.M. Chan returned to join the meeting at this point.]

Agenda Item 6

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/TM-LTY Y/143

Temporary Open Storage of Coaches, Repairing Workshop and Ancillary Car Park for Private Cars for a Period of 3 Years in "Government, Institution or Community", "Residential (Group C)" and "Residential (Group D)" zones, Lots 809RP, 810, 811, 1132, 1133, 1134,

1135ARP, 1135B, 1141RP(Part) and 1143RP(Part) in DD 130, Lam Tei, Tuen Mun
(TPB Paper No. 7756)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

38. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD) and the following applicant's representatives were invited to the meeting at this point:

Mr. Lam Kim-wan]	
Mr. Lam Kwong-leung]	Applicant's Representatives
Ms. Lee Ka-ling]	

39. The Vice-Chairman extended a welcome and explained briefly the procedures of the review hearing. The Vice-Chairman then invited Mr. Wilson So to brief Members on the background to the application. With the aid of some plans, Mr. So did so as detailed in the Paper and made the following main points:

- (a) the reasons for rejection by the Rural and New Town Planning Committee (RNTPC);
- (b) the justifications put forth by the applicant in support of the review application as set out in paragraph 3 of the Paper;
- (c) departmental comments – Assistant Commissioner for Transport/NT, Transport Department (AC for T/NT, TD) was concerned that long vehicles from the proposed access might encroach onto the loading/unloading bay opposite to the site thus blocking road traffic. There was insufficient information in the swept paths to demonstrate there would be no adverse traffic impact on Fuk Hang Tsuen Road. The case was not supported by the Director of Environmental Protection (DEP) due to likely environmental nuisance to sensitive receivers in the vicinity, including the residential development (The Sherwood ready for occupation shortly) and village houses nearby. Chief Engineer/Mainland North, Drainage Services Department considered the drainage proposal insufficient to demonstrate the

acceptability and drainage impacts;

- (d) 4 public comments were received from the Village Representatives (VRs) of Tuen Mun San Tsuen, Tuen Mun Rural Committee and an individual during the initial and further public inspection periods, objecting on grounds of potential environmental pollution, noise nuisance, adverse traffic impacts, and deprivation of “G/IC” land. District Officer/Tuen Mun advised that letters were received from the VR of Tuen Mun San Tsuen and Incorporated Owners of the nearby Botania Villa, raising concerns on potential environmental pollution, noise nuisance, adverse traffic impacts and road safety; and
- (e) PlanD’s view – not supporting the application as the site was within Category 4 area of the TPB Guidelines for Application for Open Storages and Port Back-up Uses (TPB PG-13D), with no previous approval nor technical assessment submitted. There were also departmental concerns and local objections. Approving the subject application would set an undesirable precedent with cumulative impact resulting in degradation of the environment.

40. The Vice-Chairman then invited the applicant’s representatives to elaborate on the application. Mr. Lam Kim-wan gave a powerpoint presentation and made the following main points:

- (a) the resumption of the north-eastern part of the site by Highways Department for the Deep Bay Link (DBL) project had rendered the site irregular, hence replanning for storage and coach parking was required;
- (b) mitigation measures and landscape proposals could be implemented to address DEP’s concerns while co-ordination would be undertaken with the local villagers to mitigate potential impacts;
- (c) the site, with an area of 8150m², would only accommodate 20 coaches and 12 private cars. It was large enough for on-site manoeuvring of vehicles and the loading/unloading bay nearby would not be encroached upon;

- (d) the objections were mainly due to misunderstanding. There was a shortage of coach parks to support tourism industry. As it was not possible to identify sites in the urban area, locations in rural areas were preferred. The traffic impact would be insignificant as only night time parking was required; and
- (e) there were no adverse comments from most government departments.

41. In response to a query from a Member on the traffic issue, Mr. Wilson So replied that TD was concerned that long vehicles from the site might encroach onto the loading/unloading bay along the Fuk Hang Tsuen Road outside the application site, which might block the traffic if the bay was occupied. The applicant was required to submit swept path analysis to demonstrate the acceptability of the turning movements. Mr. Lam Kim-wan said that the application site was large enough to allow tuning movements within the site and the vehicles would unlikely make turns along the road.

42. Members sought clarification from the applicant's representatives on the following:

- (a) details on the scale of operation and provision and timing for parking; and
- (b) the nature of workshop activities.

43. Mr. Lam Kim-wan made the following responses:

- (a) the coaches would operate from 7 to 8am in the morning and return by 7 to 8pm in the evening; and
- (b) the description in the application was not comprehensive. There would be no operation of repair workshop, except for change of tyres. The coaches would be subject to annual checks required by licence.

44. As the applicant's representatives had no further comment to make and Members had no further question to raise, the Vice-Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Vice-Chairman thanked the applicant's representatives and PlanD's representative for

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

Deliberation Session

45. The Vice-Chairman pointed out that the application site was located in Category 4 area under the TPB PG-13D where cases for temporary uses would normally be rejected except under exceptional circumstances. There were adverse departmental comments and local objections.

46. In response to a Member's query why the site was within Category 4 area, the Secretary explained that the site was within "R(C)" and "R(D)" zones and surrounded by residential developments, including nearby dwelling structures and the adjoining "CDA" zone with existing and approved housing projects, hence the Category 4 status.

47. Members generally agreed with PlanD's recommendation and were not in support of the application.

48. After further deliberation, the Board decided to reject the application on review and the reasons were:

- (a) the development was not in line with the planning intention of the "Government, Institution or Community", ("G/IC"), "Residential (Group C)" ("R(C)") and "R(D)" zones. No strong justification had been given in the submission to merit a departure from such planning intention, even on a temporary basis. The development was also not compatible with the residential structures in the immediate vicinity;
- (b) there was insufficient information to demonstrate that the development would not have adverse environmental, traffic and drainage impacts on the surrounding areas;
- (c) the application was not in line with the Town Planning Board Guidelines for Application for Open Storages and Port Back-up Uses in that there were no exceptional circumstances merit approval. Besides, the site did not have previous planning approvals, and there were adverse departmental and public comments against the applied use; and

- (d) no similar applications were previously approved in “G/IC”, “R(C)” and “R(D)” zones. The approval of the application would set an undesirable precedent, the cumulative impact of approving such applications would result in a general degradation of the environment.

Agenda Item 7

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-ST/322

Temporary Public Vehicle Park (Including Container Vehicles and Heavy Goods Vehicles) with Ancillary Site Offices for a Period of 3 Years in “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” zone, Lot 769(Part) in DD 99, Lots 3(Part) and 4(Part) in DD 105, San Tin, Yuen Long (Open Meeting)
(TPB Paper No. 7757)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

49. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD) and the following applicant and her representative were invited to the meeting at this point:

Ms. Liu Che-wan

Applicant

Mr. C.Y. Wong

Applicant’s Representative

50. The Vice-Chairman extended a welcome and explained briefly the procedures of the review hearing. The Vice-Chairman then invited Mr. Wilson So to brief Members on the background to the application. Mr. So tabled a revised Plan R-1 for Members’ information. With the aid of some plans, Mr. So briefed Members on the background as detailed in the Paper and made the following main points:

- (a) the reasons for rejection by the Rural and New Town Planning Committee (RNTPC);

- (b) the applicant did not submit further representation in support of the review application;
- (c) departmental comments – Director of Environmental Protection was not in support of the subject application due to the adverse noise impact due to the tractor/trailer and other traffic on the scattered dwellings nearby. Director of Agriculture, Fisheries and Conservation advised that there was no information to demonstrate that the development would have no adverse off-site disturbance impacts on the ecological integrity and the ecological value of the nearby fish ponds and wetlands in the Wetland Conservation Area (WCA). There were ecological concerns on the continuation of development within the Wetland Buffer Area (WBA);
- (d) 1 comment was received from the Village Representative of Mai Po Tsuen during the public inspection period due to complaints from local villagers on pollution caused by noise and dust generated by heavy vehicle traffic, threat to surrounding environment, and congestion arising from overloading of existing roads. District Officer (Yuen Long) advised that local objection was received from the villagers of Man Ming Yuen Tong of Fan Tin Tsuen as the site was Tso Tong's property and occupied without consent; and
- (e) PlanD's view – not supporting the application as the application site was within Category 4 area and the WBA, hence not in line with the TPB Guidelines for "Application for Open Storage and Port Back-up Uses" (TPB PG No. 13D) and "Application for Developments within Deep Bay Area" (TPB PG No 12B). Despite a previous approval given on 28.1.2000 for No. A/YL-ST/108, there was a change in planning circumstances due to the rezoning from "R(D)" to "OU(CDWRA)" since 29.9.2000. Subsequent applications (Nos. A/YL-ST/161 and 171) were rejected in 2001. Although Application No. A/YL-ST/182 was allowed by the Town Planning Appeal Board (TPAB) on 19.11.2002, the 12-month permission given was for relocation. A further 6 months was granted by the TPAB under No. A/YL-ST/253 on 17.3.2006 to allow extended period for relocation. As sufficient time for relocation had been given (more than 4 years since approval of No. A/YL-ST/182), the use should be discontinued according to

TPAB's decisions.

51. The Vice-Chairman then invited the applicant and her representative to elaborate on the application. Mr. C.Y. Wong made the following main points:

- (a) the application site was a small and self-contained site with its own security system, providing parking for only 15 tractors/trailers. The applicant had complied with all requirements and there was no environmental impact to the surroundings;
- (b) it was difficult to look for an alternative site in the Ngau Tam Mei and Fairview Park areas due to poor access or conflict with the locals;
- (c) the TPAB had granted approvals. Given no complaints and accidents in the past, there was no reason for rejection. The proposal served as a viable interim use to reduce unauthorized developments and relieve PlanD's action for enforcement; and
- (d) regarding the owners' consent, the case would be dealt with under legal procedures.

52. The Vice-Chairman noted that the application site had a long history and previous permissions were given to allow time for seeking alternative sites. He asked whether the applicant had paid effort to look for alternative sites. Mr. C.Y. Wong replied that the Ngau Tam Mei area, being remote with poor accessibility and lack of supporting facilities, was not suitable for relocation. Mr. Wilson So supplemented that the application site was rezoned to "OU(CWWRA)" in 2000 on environmental grounds. In order to strike a balance between demand for port back-up land and planning constraints, about 90 ha of land in the nearby Ngau Tam Mei area was designated as "Open Storage" ("OS") zone. However, the implementation and take-up would depend on the requirements of individual operators. It was noted that there were recent approvals in the "OS" zone for port back-up uses, there was no evidence from the applicant to demonstrate that Ngau Tam Mei was not acceptable to the industry.

53. As the applicant and her representative had no further comment to make and Members had no further question to raise, the Vice-Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the

application in their absence and inform the applicant of the Board's decision in due course. The Vice-Chairman thanked the applicant, her representative and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

54. A Member pointed out that as the area was within a conservation zone and the WBA, continuation of such uses should not be encouraged.

55. In response to a question from a Member, the Secretary explained that permission to allow time for relocation was given twice by the TPAB. In allowing a further 6 months in the appeal for No. A/YL-ST/253 on 17.3.2006, the TPAB made it clear that this was the final extension of any permission to the appellant for its current use. Local objection was received. The DPO also reported that similar applications were approved in the "OS" zone in the nearby Ngau Tam Mei area.

56. The Vice-Chairman noted that the applicant was given permissions for relocation twice by the TPAB. There was insufficient justification to deviate from TPAB's previous decisions. Members were generally of the view that the application could not be supported.

57. After further deliberation, the Board decided to reject the application on review and the reasons were:

- (a) the development was not in line with the planning intention of the "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" ("OU(CDWRA)") zone which was to encourage the phasing out of sporadic open storage and port back-up uses, and to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds;
- (b) the development did not comply with the revised Town Planning Board (TPB) Guidelines No. 12B for "Application for Developments within Deep Bay Area" in that there was no information in the submission to demonstrate that the development would not have a negative off-site disturbance impact on the ecological integrity and ecological value of the fish ponds within the Wetland Conservation Area in the Deep Bay area; and

- (c) the development was not in line with the TPB Guidelines No. 13D for “Application for Open Storage and Port Back-up Uses” in that there were adverse departmental comments and there was insufficient information in the submission to demonstrate that the development would not have adverse environmental impacts on the surrounding areas.

[Messrs. Y.K. Cheng, B.W. Chan, Walter K.L. Chan, Leslie H.C. Chen and Stanley Y.F. Wong, Prof. N.K. Leung and Ms. Starry W.K. Lee left the meeting at this point.]

Agenda Item 8

[Open meeting (Presentation and Question Session Only)]

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

Temporary Container Vehicle Park and Container Storage Area with Ancillary Repairing Workshop for a Period of 3 Years in “Open Storage” zone, Lots 2356(Part), 2357-2363, 2365(Part), 2366(Part), 2367(Part), 2368(Part), 2369, 2370(Part), 2371, 2373-2377, 2704-2710, 2711(Part), 2712-2720, 2804RP, 2806RP, 2807RP, 2809RP, 2810-2813, 2814(Part), 2815(Part), 2816(Part), 2817, 2818, 2820-2831, 2832(Part), 2833-2838, 2839(Part), 2840, 2841, 2846, 2847 and 2848 in DD 102 and Adjoining Government Land, Ngau Tam Mei, Yuen Long
(TPB Paper No. 7758)

Agenda Item 9

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-NTM/198

Temporary Container Storage with Ancillary Office for a Period of 3 Years in “Open Storage” zone, Lots 2861(Part), 2863, 2870, 2871, 2873-2878, 2892-2895, 2896(Part), 2899(Part), 2900, 2901(Part), 2908(Part), 2909, 2910(Part), 2915(Part), 2916(Part), 2917(Part) and 2918(Part) in DD 102 and Adjoining Government Land, Ngau Tam Mei, Yuen Long
(TPB Paper No. 7759)

Agenda Item 10

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-NTM/199

Temporary Container Vehicle Park with Ancillary Repairing Workshop for a Period of 3 Years in “Open Storage” zone, Lots 2327, 2328(Part), 2329, 2330(Part), 2348, 2349, 2351, 2352, 2353, 2354, 2355A, 2355B, 2842(Part), 2843, 2844(Part), 2845(Part), 2849(Part), 2850, 2851, 2852A, 2852B(Part), 2853(Part), 2854-2857, 2858(Part), 2859, 2860, 2861(Part), 2896(Part), 2897, 2898 and 2899(Part) in DD 102 and Adjoining Government Land,

Ngau Tam Mei, Yuen Long

(TPB Paper No. 7760)

Agenda Item 11

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-NTM/201

Temporary Container Storage and Container Vehicle Park with Ancillary Repairing Workshop for a Period of 3 Years in “Open Storage” zone, Lots 2805RP, 2849(Part), 2899(Part), 2911, 2915(Part), 2916(Part), 2917(Part), 2918(Part), 2919, 2922, 2923, 2925, 2926, 2927, 2929, 2930, 2931RP, 2932, 2935RP, 2937RP, 2938RP, 2939RP, 2940, 2941, 2942, 2943, 2944, 2945, 2951, 2952 and 2953RP in DD 102 and Adjoining Government Land, Ngau Tam Mei, Yuen Long

(TPB Paper No. 7761)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

58. The Secretary informed the meeting that Ms. Carmen K.M. Chan had declared an interest in Item 10 as she knew one of the owners of the subject lots in the application site. It was noted that Ms. Chan had tendered apology for not being able to attend the meeting. As the 4 review applications submitted by the same applicant for similar uses in close proximity within the same zone, Members agreed that they should be considered together.

59. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD) and the following applicant and his representatives, were invited to the meeting at this point:

Mr. Man Ying-sau	Applicant
Mr. Fung Wai-man]
Mr. Tang So-chun] Applicant's Representatives
Mr. Wong wai-keung]
Ms. Man Yun-ho]

60. The Vice-Chairman extended a welcome and explained briefly the procedures of the review hearing. The Vice-Chairman then invited Mr. Wilson So to brief Members on the background to the application. With the aid of some plans, Mr. So did so as detailed in the Paper and made the following main points:

- (a) the subject applications were approved by Rural and New Town Planning Committee (RNTPC) on 1.9.2006 (Nos. YL/NTM/197 and 198 for 2 years and No. YL/NTM/199 for 9 months) and 29.9.2006 (No. YL/NTM/201 for 2 years). The applicant sought review of RNTPC's decision on an approval condition, namely "no operation on Sundays or public holidays was allowed on the site during the planning approval period" in the 4 planning permissions;
- (b) the justifications put forth by the applicant in support of the review application as set out in paragraph 3 of the Papers;
- (c) departmental comments – the applications were not supported by the Director of Environmental Protection (DEP) due to presence of sensitive uses in the vicinity of the application sites, especially Ki Lun Tsuen, where environmental nuisance was expected. Previous complaints were received for 2 of the applications;
- (d) two public comments were received during the statutory public inspection and further inspection period of the subject applications from members of Yuen Long District Council (YLDC), objecting to the applications due to

disturbance to the naturalness of Ki Lun Shan area, incompatibility with the surroundings and planning intention of nearby “GB” zone, impact on the environment and natural ecology; and traffic dust and noise nuisances to nearby residents; and

- (e) PlanD’s view – the approval condition restricting night-time and Sundays/holidays operation was imposed to minimize the possible environmental impacts, taking into account DEP’s “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) for prohibition of noisy operations during sensitive hours. This was also the general practice of the Board since promulgation of TPB PG-13D with a view to mitigate potential environmental impacts on nearby sensitive receivers. The 2 applications (Nos. A/YL-ST/305 and 306) quoted by the applicant were not comparable, as these application sites were not close to major residential settlements, hence DEP had no objection and advised to follow the COP. However, DEP raised environmental concerns on the current 4 applications due to impacts on nearby cluster of dwellings in Ki Lun Tsuen to the east. Since the approval of the subject applications, RNTPC had approved similar cases (Nos. A/YL-NTM/202, 205 and 208) in the same “OS” zone with the same restriction. There was no change in planning circumstances to merit a departure. The approval of the review applications would set an undesirable precedent with adverse impact on nearby residents.

[Mr. K.Y. Leung left the meeting at this point.]

61. The Vice-Chairman then invited the applicant’s representative to elaborate on the 4 review applications. Mr. Fung Wai-man made the following main points:

- (a) operation would be required on Sundays and public holidays due to delay in shipping or re-scheduling of transport arrangements as contingency measures but involving only minimum site operations. The restriction on such operation would significantly affect their business and prejudice the planning intention of the “OS” zone;
- (b) given there was no change in planning circumstances and no complaint

received during the past 10 years, such prohibition was not necessary;

- (c) DEP's COP prohibited noisy operations during 11pm to 7am. The Board's approval condition on restricting night-time operation from 11pm to 8am was already more stringent;
- (d) such prohibition was not prescribed in the previous approval (No. A/YL-NTM/171) nor similar cases in the vicinity before. 2 applications nearby were recently approved with the same condition, including one approved on 2.2.2007 (A/YL-NTM/208). The applicant for Application No. A/YL-NTM/208 had indicated intention to raise objection; and
- (e) application No. A/YL-NTM/122 was approved on 25.1.2002 for public carpark without restriction on Sundays/public holidays operation, even though access to the site had to go through the Ma Po Lung Tsuen. As the application sites were small and remotely located, where work on Sundays/public holidays would not generate impacts on nearby villagers, it was unfair to impose such condition.

62. Mr. Wong Wai-keung supplemented with the following main points:

- (a) with the round-the-clock opening of the boundary-crossings, such restriction would seriously affect the port back-up industry;
- (b) the public comment was raised by one YLDC member who objected without a good reason. Most nearby residents were their workers; and
- (c) support should be given to this industry which survived on a marginal basis.

63. Members sought clarification from Mr. Wilson So on the following:

- (a) the rationale for the restriction on Sundays/public holidays operation;
- (b) any similar restriction on other cases in the past;
- (c) any complaints received;
- (d) the background for the approval of Application No. A/YL-NTM/122; and

- (e) whether there was any agreement between PlanD and EPD on the restriction.

64. In response, Mr. Wilson So replied as follows:

- (a) the restriction was to address DEP's concerns on environmental interface with residential dwellings, taking into account the COP. It was also in line with the Board's general practice since promulgation of TPB PG-13D to reduce potential environmental concerns on nearby sensitive receivers. A proper balance had been struck in addressing DEP's concerns and allowing continued operation of the applied uses;
- (b) such restriction had been imposed on similar cases in the same zone since the promulgation of TPB PG-13D in late 2005;
- (c) complaints had been received on 2 of the subject applications;
- (d) Application No. A/YL-NTM/122 at Ma Po Lung Tsuen was not a relevant comparison as it was approved on 25.1.2002 based on the prevalent guidelines and planning circumstances at that time; and
- (e) the subject applications were not supported by DEP due to environmental nuisance to sensitive uses in the vicinity, especially Ki Lun Tsuen. There was no agreement between PlanD and EPD on the restriction.

65. The Secretary advised that the restriction was a recent practice adopted by the TPB following the promulgation of TPB PG-13D. It was imposed in those cases where the application were approved despite DEP's concern and local objections. Similar applications in the same "OS" zone were approved with the same restriction. Previous complaints were received by DEP, including 3 cases for No. YL/NTM/199 and 1 case for YL/NTM/201, relating to air, water and noise pollution.

66. The Vice-Chairman and a Member sought clarification from the applicant on the scale of operation and traffic flow on Sundays and public holidays. Messrs. Wong Wai-keung and Fung Wai-man replied that as Mainland drivers normally did not work on these days, only 1/3 of on-site operation would be maintained and the number of heavy vehicles would be reduced to 1/3 of the regular flow.

67. In response to the comments by Messrs. Wong Wai-keung and Fung Wai-man

regarding Application No. YL/NTM/122, the Vice-Chairman clarified that recent applications in the same “OS” zone were treated in a similar manner and the approval condition was intended to allow the proposed uses to continue without neglecting DEP’s concerns.

68. As the applicant and his representatives had no further comment to make and Members had no further question to raise, the Vice-Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the 4 review applications in their absence and inform the applicants of the applications of the Board’s decision in due course. The Vice-Chairman thanked the applicant, his representatives and PlanD’s representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

69. Members were generally sympathetic on the subject applications and expressed the following views:

- (a) the subject applications were approved with a view to balancing the need of the industry and the environmental concerns;
- (b) the situation could be less desirable if vehicles were left unattended or parked elsewhere on Sundays and public holidays hence blocking road traffic;
- (c) the case could be supported as the application sites were within Category 1 area and close to the boundary crossings;
- (d) the restriction could be relaxed as the application sites were close to the main road with easy access; and
- (e) consideration could be given to relax such restriction only to cases without previous complaint or located along the main road. However, it might not be appropriate to adopt the number of compliant cases as a criterion as it was not certain if these were complaints on Sundays/public holidays operation.

70. While giving due recognition to the needs of the port back-up industry, the Vice-Chairman reiterated the need to balance both the economic and environmental

considerations in the deliberation. A Member suggested a shorter operation hours as an option to cater for the need for Sundays/public holidays operation while also reducing their impacts on residents in the vicinity. Members generally accepted this approach and considered it reasonable to restrict operation from 5pm to 10am on Sundays/public holidays.

71. A Member was concerned about the broader implication of relaxing holiday time operation on other areas in the territory. Members agreed that this relaxation should only apply to Category 1 areas in the "OS" zone, taking into account the operational characteristics of the industry and the environmental impacts on the surrounding areas.

Application No. A/YL-NTM/197

72. After further deliberation, the Board decided to approve the review application by replacing approval condition (c). The planning permission should be valid on a temporary basis for a period of 2 years up to 1.9.2008 and subject to the following conditions:

- (a) the setting back of the site boundary to avoid encroachment onto the works limit of the "Drainage Improvement in Northern NT Package B – Drainage Improvement Works in Ki Lun Tsuen, Yuen Long, N.T." project as when required by Government departments;
- (b) no night-time operation between 11:00 p.m. and 8:00 a.m. was allowed on the site during the planning approval period;
- (c) no operation on Sundays and public holidays between 5.00 p.m. and 10.00 a.m. on the site during the planning approval period;
- (d) the submission of vehicular access proposals for the site within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.12.2006;
- (e) in relation to (d) above, the implementation of the accepted vehicular access proposal within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.3.2007;
- (f) the submission of run-in proposal within 3 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town

Planning Board by 1.12.2006;

- (g) in relation to (f) above, the implementation of the accepted run-in proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 1.3.2007;
- (h) the submission of landscape and tree preservation proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2006;
- (i) in relation to (h) above, the implementation of the accepted landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.3.2007;
- (j) the submission of a Drainage Impact Assessment within 3 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.12.2006;
- (k) in relation to (j) above, the implementation of flood mitigation measures and provision of drainage facilities as identified in the Drainage Impact Assessment within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.3.2007;
- (l) the provision of fencing of the site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2006;
- (m) if any of the above planning conditions (a), (b) or (c) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (n) if any of the above planning conditions (c), (d), (e), (f), (g), (h), (i), (j), (k) or (l) was not complied with by the above specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and

- (o) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

73. The Board also decided to advise the applicant of the following:

- (a) resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) note that shorter approval period has been imposed in order to monitor the fulfillment of approval conditions;
- (c) apply to District Lands Office/Yuen Long (DLO/YL) for Short Term Waiver for erection of structures on the site and Short Term Tenancy for occupation of Government Land and consult DLO/YL regarding all the proposed drainage works outside the site boundary;
- (d) note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) in paragraph 4.1.2 of the Paper to consult DLO/YL regarding all the proposed drainage works outside the site boundary, to construct and maintain all proposed drainage facilities at his own costs, and not to disturb or block all existing drains, channels and streams within and in its vicinity of the site. No public sewerage maintained by his Office was currently available for connection;
- (e) comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) in paragraph 10.1.7 of Annex A of the Paper to bear the cost of any necessary diversion works of existing water mains affected by the proposed development. In case it was not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water main should be provided to WSD. No structure should be erected over this waterworks reserve and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize. Government should not be

liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the site;

- (f) note the comments of the Chief Highway Engineer/New Territories West, Highways Department in paragraph 10.1.3 of Annex A of the Paper to construct a run-in in accordance with the latest version of HyD's Standard Drawings No. H1113 and H1114 or H5115 and H5116 whichever set as appropriate to match the pavement type of the adjacent footpaths and that his Office was not responsible for the maintenance of any existing vehicular access connecting the site and Kwu Tung Road;
- (g) comply with the environmental mitigation measures recommended in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' as issued by the Director of Environmental Protection in order to minimize the possible environmental nuisance;
- (h) note the comments of the Director of Agriculture, Fisheries and Conservation in paragraph 10.1.10 of Annex A of the Paper that mitigatory and safety measures must be taken; and the existing access roads, water sources and drainage should be maintained in order not to cause any disturbance to the fish pond farming;
- (i) approach Dangerous Goods Division of Fire Services Department for advice on licensing of the site for repairing workshop purpose; and
- (j) note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) in paragraph 10.1.9 of Annex A of the Paper that all building works were subject to compliance with the Buildings Ordinance. Authorized Person must be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

Application No. A/YL-NTM/198

74. After further deliberation, the Board decided to approve the review application by

replacing approval condition (b). The planning permission should be valid on a temporary basis for a period of 2 years up to 1.9.2008 and subject to the following conditions:

- (a) no night-time operation between 11:00 p.m. and 8:00 a.m. was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays between 5.00 p.m. and 10.00 a.m. on the site during the planning approval period;
- (c) the submission of vehicular access proposals for the site within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.12.2006;
- (d) in relation to (c) above, the implementation of the accepted vehicular access proposal within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.3.2007;
- (e) the submission of landscape and tree preservation proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2006;
- (f) in relation to (e) above, the implementation of the accepted landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.3.2007;
- (g) the submission of a Drainage Impact Assessment within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.12.2006;
- (h) in relation to (g) above, the implementation of flood mitigation measures and provision of drainage facilities as identified in the Drainage Impact Assessment within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.3.2007;
- (i) the provision of fencing of the site within **3** months from the date of

planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2006;

- (j) if the above planning conditions (a) or (b) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (k) if any of the above planning conditions (b), (c), (d), (e), (f), (g), (h) or (i) was not complied with by the above specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (l) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

75. The Board also decided to advise the applicant of the following:

- (a) resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) note that shorter approval period has been imposed in order to monitor the fulfillment of approval conditions;
- (c) apply to District Lands Office/Yuen Long (DLO/YL) for Short Term Waiver for erection of structures on the site and Short Term Tenancy for occupation of Government Land and consult DLO/YL regarding all the proposed drainage works outside the site boundary;
- (d) note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) in paragraph 4.1.2 of the Paper to consult DLO/YL regarding all the proposed drainage works outside the site boundary, to construct and maintain all proposed drainage facilities at his own costs, and not to disturb or block all existing drains, channels and streams within and in its vicinity of the site. No public sewerage maintained by his Office was currently available for connection;
- (e) comments of the Chief Engineer/Development(2), Water Supplies

Department (WSD) in paragraph 10.1.7 of **Annex A** of the Paper to bear the cost of any necessary diversion works of existing water mains affected by the proposed development. In case it was not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water main should be provided to WSD. No structure should be erected over this waterworks reserve and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize. Government should not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the site;

- (f) note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department in paragraph 10.1.2 of Annex A of the Paper to clarify the land status and management/maintenance responsibilities of the access road leading to the site from Kwu Tung Road and to consult the relevant lands/maintenance authorities;
- (g) note the comments of the Chief Highway Engineer/New Territories West, Highways Department in paragraph 10.1.3 of Annex A of the Paper that his Office was not responsible for the maintenance of any existing vehicular access connecting the site and Kwu Tung Road;
- (h) comply with the environmental mitigation measures recommended in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' as issued by the Director of Environmental Protection in order to minimize the possible environmental nuisance;
- (i) note the comments of the Director of Agriculture, Fisheries and Conservation in paragraph 10.1.9 of Annex A of the Paper that mitigatory and safety measures must be taken; and the existing access roads, water sources and drainage should be maintained in order not to cause any disturbance to the fish pond farming; and
- (j) note the comments of the Chief Building Surveyor/New Territories West,

Buildings Department (CBS/NTW, BD) in paragraph 10.1.8 of Annex A of the Paper that all building works were subject to compliance with the Buildings Ordinance. Authorized Person must be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

Application No. A/YL-NTM/199

76. After further deliberation, the Board decided to approve the review application by replacing approval condition (b). The planning permission should be valid on a temporary basis for a period of 9 months up to 1.6.2007 and subject to the following conditions:

- (a) no night-time operation between 11:00 p.m. and 8:00 a.m. was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays between 5.00 p.m. and 10.00 a.m. on the site during the planning approval period;
- (c) the submission of vehicular access proposals including swept path analysis for the site within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.12.2006;
- (d) in relation to (c) above, the implementation of the accepted vehicular access proposal within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.3.2007;
- (e) the submission of landscape and tree preservation proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2006;
- (f) in relation to (e) above, the implementation of landscape and tree preservation proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.3.2007;

- (g) the submission of a Drainage Impact Assessment within 3 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.12.2006;
- (h) in relation to (g) above, the implementation of flood mitigation measures and provision of drainage facilities as identified in the Drainage Impact Assessment within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.3.2007;
- (i) the provision of fencing of the site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2006;
- (j) if the above planning conditions (a) or (b) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (k) if any of the above planning conditions (b), (c), (d), (e), (f), (g), (h) or (i) was not complied with by the above specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (l) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

77. The Board also decided to advise the applicant of the following:

- (a) resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) note that shorter approval period has been imposed in order not to jeopardize the implementation of PWP item 118CD “Drainage Improvement in Northern NT Package B – Drainage Improvement Works in Ki Lun Tsuen, Yuen Long, N.T.” and shorter compliance periods have been imposed in order to monitor the fulfillment of approval conditions;

- (c) apply to District Lands Office/Yuen Long (DLO/YL) for Short Term Waiver for erection of structures on the site and Short Term Tenancy for occupation of Government Land and consult DLO/YL regarding all the proposed drainage works outside the site boundary;
- (d) note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) in paragraph 4.1.2 of the Paper to consult DLO/YL regarding all the proposed drainage works outside the site boundary, to construct and maintain all proposed drainage facilities at his own costs, and not to disturb or block all existing drains, channels and streams within and in its vicinity of the site. No public sewerage maintained by his Office was currently available for connection;
- (e) comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) in paragraph 10.1.7 of Annex A of the Paper to bear the cost of any necessary diversion works of existing water mains affected by the proposed development. In case it was not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water main should be provided to WSD. No structure should be erected over this waterworks reserve and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize. Government should not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the site;
- (f) note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department in paragraph 10.1.2 of Annex A of the Paper to clarify the land status and management/maintenance responsibilities of the access road leading to the site from Kwu Tung Road and to consult the relevant lands/maintenance authorities;
- (g) note the comments of the Chief Highway Engineer/New Territories West, Highways Department in paragraph 10.1.3 of Annex A of the Paper that his

Office was not responsible for the maintenance of any existing vehicular access connecting the site and Kwu Tung Road;

- (h) comply with the environmental mitigation measures recommended in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' as issued by the Director of Environmental Protection in order to minimize the possible environmental nuisance;
- (i) note the comments of the Director of Agriculture, Fisheries and Conservation in paragraph 10.1.10 of Annex A of the Paper that mitigatory and safety measures must be taken; and the existing access roads, water sources and drainage should be maintained in order not to cause any disturbance to the fish pond farming;
- (j) approach Dangerous Goods Division of Fire Services Department for advice on licensing of the site for repairing workshop purpose; and
- (k) note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) in paragraph 10.1.9 of Annex A of the Paper that all building works were subject to compliance with the Buildings Ordinance. Authorized Person must be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

Application No. A/YL-NTM/201

78. After further deliberation, the Board decided to approve the review application by replacing approval condition (c). The planning permission should be valid on a temporary basis for a period of 2 years up to 29.9.2008 and subject to the following conditions:

- (a) the setting back of the site boundary to avoid encroachment onto the works limit of the "Drainage Improvement in Northern NT Package B – Drainage Improvement Works in Ki Lun Tsuen, Yuen Long, N.T." project as when required by Government departments;

- (b) no night-time operation between 11:00 p.m. and 8:00 a.m. was allowed on the site during the planning approval period;
- (c) no operation on Sundays and public holidays between 5.00 p.m. and 10.00 a.m. on the site during the planning approval period;
- (d) the submission of vehicular access proposals for the site within **3** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 29.12.2006;
- (e) in relation to (d) above, the implementation of the vehicular access proposal within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 29.3.2007;
- (f) the submission of landscape and tree preservation proposals within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 29.12.2006;
- (g) in relation to (f) above, the implementation of the accepted landscape and tree preservation proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 29.3.2007;
- (h) the submission of a Drainage Impact Assessment within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 29.12.2006;
- (i) in relation to (h) above, the implementation of flood mitigation measures and provision of drainage facilities as identified in the Drainage Impact Assessment within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 29.3.2007;
- (j) the provision of fencing of the site within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 29.12.2006;
- (k) if any of the above planning conditions (a), (b) or (c) was not complied with

during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;

- (l) if any of the above planning conditions (d), (e), (f), (g), (h), (i) or (j) was not complied with by the above specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (m) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

79. The Board also decided to advise the applicant of the following:

- (a) resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) note that shorter approval period has been imposed in order to monitor the fulfillment of approval conditions;
- (c) apply to District Lands Office/Yuen Long (DLO/YL) for Short Term Waiver for erection of structures on the site and Short Term Tenancy for occupation of Government Land and consult DLO/YL regarding all the proposed drainage works outside the site boundary;
- (d) note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) in paragraph 4.1.2 of the Paper to consult DLO/YL regarding all the proposed drainage works outside the site boundary, to construct and maintain all proposed drainage facilities at his own costs, and not to disturb or block all existing drains, channels and streams within and in its vicinity of the site. No public sewerage maintained by his Office was currently available for connection;
- (e) comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) in paragraph 10.1.7 of Annex A of the Paper to bear the cost of any necessary diversion works of existing water mains affected by the proposed development. In case it was not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the

water main should be provided to WSD. No structure should be erected over this waterworks reserve and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize. Government should not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the site;

- (f) note the comments of Assistant Commissioner for Transport, Transport Department in paragraph 10.1.2 of Annex A of the Paper to check the management and maintenance responsibility of the proposed access road between the site and Kwun Tung Road and that since the proposed access road would pass through Lots No. 2804RP and 2806RP in D.D. 102, the right-of-way might not be guaranteed;
- (g) note the comments of the Chief Highway Engineer/New Territories West, Highways Department in paragraph 10.1.3 of Annex A of the Paper that his Office was not responsible for the maintenance of any existing vehicular access connecting the site and Kwun Tung Road;
- (h) comply with the environmental mitigation measures recommended in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' as issued by the Director of Environmental Protection in order to minimize the possible environmental nuisance;
- (i) note the comments of the Director of Agriculture, Fisheries and Conservation in paragraph 10.1.10 of Annex A of the Paper that mitigatory and safety measures must be taken; and the existing access roads, water sources and drainage should be maintained in order not to cause any disturbance to the fish pond farming;
- (j) approach Dangerous Goods Division of Fire Services Department for advice on licensing of the site for repairing workshop purpose; and
- (k) note the comments of the Chief Building Surveyor/New Territories West,

Buildings Department (CBS/NTW, BD) in paragraph 10.1.9 of Annex A of the Paper that all building works were subject to compliance with the Buildings Ordinance. Authorized Person must be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

[Prof. David Dudgeon left the meeting at this point.]

Agenda Item 12

[Open meeting]

Request for Deferral of Review of Application No. A/YL-TYST/310
Proposed Flats and Minor Relaxation of Plot Ratio Restriction in
“Residential (Group B)1” zone, Lot 2131 in DD 121,
Tong Yan San Tsuen, Yuen Long
(TPB Paper No. 7762)

[The meeting was conducted in Cantonese.]

80. The Secretary presented the Paper and said that the Board had previously decided to defer consideration of the review application twice at the requests of the applicant for 5 months to allow time for preparation of further information and to consult Director of Environmental Protection (DEP) and Director of Planning on the environmental assessment study being undertaken.

81. The environmental assessment study were subsequently incorporated into a fresh s.16 application (No. A/YL-TYST/343) proposing revision to the approved layout of the current application to address DEP’s concerns on industrial/residential interface problem. On 19.1.2007 the Board agreed to defer No. A/YL-TYST/343 for 2 months upon the applicant’s request for submission of further information to address departmental concerns on technical issues.

82. The applicant’s representative requested to defer a decision on the current case until No. A/YL-TYST/343 was considered, in case supplementary information was required as a consequence.

83. After further deliberation, the Board decided to accept the request for deferment. Two months would be given to the applicant for preparation of submission of further information. The application would be submitted to the Board for consideration within 2 months upon receipt of further submission from the applicant. The applicant should be advised that the Board had allowed 2 months for preparation of submission of further information, i.e. a total of 7 months, no further deferment would be granted unless under very special circumstances.

Agenda Item 13

[Open meeting]

Request for Deferral of Review of Application No. A/YL-SK/132

Proposed Temporary Open Storage of Vehicles for a Period of 3 Years in “Residential (Group D)” zone, Lot 847RP in DD 114, Kam Sheung Road, Shek Kong, Yuen Long

(TPB Paper No. 7763)

[The meeting was conducted in Cantonese.]

84. The Secretary presented the Paper and said that the Board had previously decided, at the requests of the applicant, to extend the time for preparation and submission of additional information from the applicant had been extended for 3 months. On 8.12.2006, an impact assessment study was submitted and the review application was scheduled for consideration on 2.3.2007. On 2.2.2007, the applicant’s representative requested for deferral of consideration to the next meeting, i.e. 16.3.2007, as the counsel who would present the case would not be available on 2.3.2007.

85. After further deliberation, the Board decided to accept the request for deferment for decision on the review application for 1 more meeting and the application would be submitted for consideration at the subsequent meeting, i.e. 16.3.2007. The applicant should be advised that the Board had allowed a total of more than 3 months for preparation and submission of further information, no further deferment would be granted unless under very special circumstances.

Agenda Item 14

Any Other Business

[Open Meeting. The meeting was conducted in Cantonese.]

86. There being no other business, the meeting was closed at 1.30 p.m.

(VICE-CHAIRMAN)
TOWN PLANNING BOARD