

## **TOWN PLANNING BOARD**

### **Minutes of 414th Meeting of the Rural and New Town Planning Committee held at 2:30 p.m. on 19.3.2010**

#### **Present**

Director of Planning  
Mrs. Ava S.Y. Ng

Chairperson

Mr. Alfred Donald Yap

Vice-chairman

Professor David Dudgeon

Mr. Tony C.N. Kan

Dr. C.N. Ng

Mr. B.W. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Dr. James C. W. Lau

Professor Edwin H.W. Chan

Mr. Timothy K.W. Ma

Chief Traffic Engineer/New Territories West,  
Transport Department  
Mr. T.K. Choi

Principle Environmental Protection Officer (Strategic Assessment)  
Environmental Protection Department  
Mr. H.M. Wong

Assistant Director/New Territories, Lands Department  
Mr. Simon K.M. Yu

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

Secretary

**Absent with Apologies**

Mr. David W.M. Chan

Mr. Edmund K.H. Leung

Ms. Maggie M.K. Chan

Professor Paul K.S. Lam

Mr. Rock C.N. Chen

Assistant Director (2), Home Affairs Department  
Mr. Andrew Y.T. Tsang

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board  
Miss H.Y. Chu

Town Planner/Town Planning Board  
Miss Alice Y.Y. Cheung

**Agenda Item 1**

Confirmation of the Draft Minutes of the 413th RNTPC Meeting held on 5.3.2010

[Open Meeting]

1. The draft minutes of the 413th RNTPC meeting held on 5.3.2010 were confirmed without amendments.

**Agenda Item 2**

Matters Arising

[Open Meeting]

(i) New Town Planning Appeals Received

(a) Town Planning Appeal No. 3 of 2010

Proposed Flat, Public Transport Terminus and Shop and Services  
(Proposed Amendments to an Approved Scheme) in  
“Comprehensive Development Area (1)” and “Open Space” zones,  
Former Bus Depot at 391 Chai Wan Road,  
a section of Sheung On Street and the Adjoining Bus Terminus,  
Chai Wan  
(Application No. A/H20/159)

2. The Secretary reported that an appeal against the decision of the Town Planning Board (TPB) to reject on review an application for proposed flat, public transport terminus and shop and services (proposed amendments to an approved scheme) in “Comprehensive Development Area (1)” and “Open Space” zones on the draft Chai Wan Outline Zoning Plan (OZP) No. S/H20/17 was received by the Town Planning Appeal Board (TPAB) on 5.3.2010. The application was rejected by the TPB on 11.12.2009 on the following grounds :

- (a) the building heights of the proposed development were considered excessive in the local context and incompatible with the surrounding developments. The applicant had failed to demonstrate that the proposed building height would not bring about adverse visual impact on the area.

There was scope to further reduce the building height to a more acceptable level;

- (b) the podium structure of the proposed development was considered excessive in scale and undesirable to the pedestrian level environment of the area. There was scope to reduce the scale of the podium structure to reduce the adverse impact; and
- (c) the proposed development schemes were subject to adverse traffic noise impact and the applicant had failed to demonstrate that all practical measures including layout and design of the buildings had been applied to mitigate the impact.

3. The Secretary said that the hearing date of the above appeal was yet to be fixed. The Secretariat would represent the Board on all matters relating to the proceedings of the TPAB in the usual manner.

- (b) Town Planning Appeal No. 4 of 2010  
Temporary Vehicle Repair Workshop for a Period of 3 Years  
in "Green Belt" zone,  
Lot 2440RP (Part), 2429(Part), 2431RP (Part) and  
Adjoining Government Land in DD 130,  
Lam Tei, Tuen Mun  
(Application No. A/TM-LTY Y/189)

4. The Secretary reported that an appeal against the decision of the TPB to reject on review an application for a temporary vehicle repair workshop in "Green Belt" ("GB") zone on the approved Lam Tei and Yick Yuen OZP No. S/TM-LTY Y/6 was received by the TPAB on 15.3.2010. The application was rejected by the TPB on 8.1.2010 on the following grounds :

- (a) the proposed development was not in line with the planning intention of "GB" zone. There was a general presumption against development within this zone. No strong planning justification had been given in the

submission for a departure from such planning intention of the “GB” zone, even on temporary basis;

- (b) the development was not compatible with the surrounding green landscape and the residential dwellings in the close vicinity;
- (c) there was no information in the submission to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas; and
- (d) the approval of the application would set an undesirable precedent for similar applications within these zones. The cumulative impact of approving such applications would result in general degradation of the environment.

5. The Secretary said that the hearing date of the above appeal was yet to be fixed. The Secretariat would represent the Board on all matters relating to the proceedings of the TPAB in the usual manner.

(ii) Abandonment of Town Planning Appeal

Town Planning Appeal No. 12 of 2007  
Proposed Hotel in “Residential (Group A)” zone,  
380 Prince Edward Road West,  
Kowloon City  
(Application No. A/K10/222)

6. The Secretary reported that the subject appeal was received by the TPAB on 20.11.2007 against the decision of the TPB on 5.10.2007 to reject on review an application (No. A/K10/222) for proposed hotel development at a site zoned “Residential (Group A)” on the approved Ma Tau Kok OZP No. S/K10/18. On 9.2.2010, the appeal was abandoned by the Appellant of his own accord. On 16.3.2010, the abandonment was confirmed by the TPAB in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

(iii) Appeal Statistics

7. The Secretary reported that as at 19.3.2010, a total of 23 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows :

Allowed	:	24
Dismissed	:	111
Abandoned/Withdrawn/Invalid	:	137
Yet to be Heard	:	23
Decision Outstanding	:	2
Total	:	297

(iv) Approval of Draft Outline Zoning Plan

8. The Secretary reported that the Chief Executive in Council on 2.3.2010 approved the draft Mid-Levels West Outline Zoning (to be renumbered as S/H11/15) under section 9(1)(a) of the Town Planning Ordinance. The approval of the plan would be notified in the Gazette on 19.3.2010.

**General**

[Mr. W.K. Hui, District Planning Officer/Shau Tin, Tai Po and North (DPO/STN), Ms. Amy Y.M. Cheung, District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), Mr. Ivan M.K. Chung, District Planning Officer/Sai Kung and Islands (DPO/SKIs), Mr. Wilson W.S. Chan, District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), and Mr. Charles C.F. Yum, Senior Town Planner/New Territories Headquarters (STP/NTHQ), were invited to the meeting at this point.]

**Agenda Item 3**

Review of Sites Designated “Comprehensive Development Area”  
on Statutory Plans in the New Territories for the Year 2009/2010  
(RNTPC Paper No. 3/10)

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9. Mr. T.K. Choi enquired whether he would need to declare an interest on this item as the subject review of “Comprehensive Development Area” (“CDA”) sites had involved sites relating to the projects of Mass Transit Railway Corporation Ltd. (MTRCL) in which the Chief Traffic Engineer/New Territories West was an alternate member for the Deputy Secretary for Transport and Housing (Transport)<sup>1</sup>, who was a member of the Board of MTRCL. In response, the Secretary said that as the subject review related to general planning matter which concerned the review of the progress of development of “CDA” sites in the New Territories but not the development proposals of specific “CDA” sites, the declaration of interest by the TD’s representative was not required according to the Town Planning Board (TPB)’s procedure and practice. The Chairperson supplemented that TD would be required to declare an interest when the development proposal of MTRCL-related “CDA” sites was submitted to the Board for consideration.

10. With the aid of a PowerPoint presentation, Mr. Charles Yum, STP/NTHQ, briefed Members on the background of the review and said that the Board on 7.5.1999 endorsed the TPB Guidelines for “Designation of “CDA” Zones and Monitoring the Progress of “CDA” Developments” (TPB PG-No. 17), and further agreed on 21.5.1999 that the review of the “CDA” sites designated for more than three years should be conducted on an annual basis. The review would assist the Committee in considering the rezoning of suitable “CDA” sites to other appropriate zonings, and monitoring the progress of “CDA” developments. He then presented the latest review as detailed in the Paper highlighting the following :

- (a) there were a total of 63 “CDA” sites in the New Territories and all of them had been designated for more than three years by the end of March 2010. Of the 63 sites, 29 of them had no approved Master Layout Plan (MLP) and 34 of them had approved MLP;

[Professor David Dudgeon arrived to join the meeting at this point.]

“CDA” Sites with No Approved MLP

- (b) among the 29 “CDA” sites with no approved MLP, 23 sites were proposed for retention, four sites were previously agreed to be rezoned and two sites were identified with potential for rezoning;
- (c) among the 23 sites proposed for retention, proposals for nine sites were actively being pursued with MLPs being prepared; the approved MLPs for two sites had lapsed and the applicants were reviewing the development proposals for the sites; the review of land use proposals for six sites were subject to the findings of the on-going or proposed planning studies; and six sites were subject to such concerns as traffic, environmental and/or visual impacts which needed to be properly addressed. Detailed justifications for their proposed retention were provided in Appendix I of the Paper;
- (d) four “CDA” sites in Ha Tsuen (Plan 27 of the Paper) were previously agreed by the Committee to be rezoned. However, the rezoning was held back until completion of the Hung Shui Kiu New Development Area Study (HSK NDA) as announced in the 2007-2008 Policy Address as the four “CDA” sites fell within the HSK NDA study boundary. Details of these sites were given in Appendix II of the Paper;
- (e) the remaining two “CDA” sites in Fanling and Ma On Shan (Plans 28 and 29 of the Paper) were identified with potential for rezoning. Details of the rezoning proposals for these sites were given in Appendix III of the Paper;

“CDA” Sites with Approved MLP

- (f) among the 34 “CDA” sites, 30 sites were proposed for retention, two sites were ready to be rezoned as developments therein had been completed and the remaining two sites were proposed for rezoning;



- (g) the 30 “CDA” sites proposed for retention were sites either had some progress or were at various stages of implementation. Detailed justifications for the retention of these sites were provided in Appendix IV of the Paper;
- (h) two sites (NTW 20 and YL-A1) had previously been agreed by the Committee for rezoning. As the proposed amendments for these two sites were technical in nature and there was no immediate urgency for the rezoning, the Committee previously agreed that the proposed amendments could be gazetted together with other amendments to be made to the Yuen Long OZP in the next round of the OZP amendment. Details of the progress of these sites were detailed in Appendix V of the Paper;
- (i) two sites were proposed for rezoning :
  - the development at the “CDA” site at the junction of Fuk Hang Tsuen Road and Lam Tei Main Street (NTW 29) had been completed in accordance with the approval conditions of the planning application (No. A/TM-LTYT/110), which had all been discharged. The planning permission covered the majority of the “CDA” zone. It had the potential for rezoning, subject to designation of appropriate land use and development intensity on the remaining minor portions of the “CDA” zone which was not covered by the planning permission. Proposed amendments to the OZP would be submitted to the Committee for consideration in due course; and
  - the development in the southern part of the “CDA” site located to the east of Ping Ha Road and north of Castle Peak Road, Ping Shan (NTW 44) was completed and occupied and all the approval conditions were complied with. Consideration would be given to rezone this part of the “CDA” in the next round of the OZP amendment. However, for the northern part of the “CDA”, no development proposal for this part of the “CDA” site had been submitted. As the site was located to the east of Ping Ha Road which was subject to severe traffic congestion and there

were only a few land owners, review of the appropriateness of the “CDA” zoning of this site would be conducted in due course. Detailed justification for rezoning for these sites were provided in Appendix VI of the Paper; and

- (j) to sum up, out of the 63 “CDA” sites reviewed, 53 were proposed for retention, 6 were already agreed for rezoning and 4 others were proposed or with potential for rezoning.

11. The Chairperson remarked and Members noted that the subject annual review was only to give Members a general overview of the current position of the “CDA” sites in the New Territories, whereas formulation of the detailed proposal and corresponding OZP amendments for individual sites in subsequent stages would need to be submitted to the Committee for consideration and approval.

12. A Member enquired whether there was any detailed proposed land uses for the future development of the “CDA” Site in Whitehead Headland, Ma On Shan (MOS 1). In response, Mr. W.K. Hui referred Members to paragraph 4.1.4(b) of the Paper and said that the site was identified to be suitable for recreational or recreational cum residential development by the “Feasibility Study for Housing Development at Whitehead and Lee On in Ma On Shan, Sha Tin” completed in 2002. The outline of a planning brief for development of the site was prepared and circulated. Recently, in response to the Sha Tin District Council (STDC)’s suggestion to develop the site as part of a proposed geopark and cycle park, and the lack of progress for the implementation of the site, a review of the land use zoning of the site was being contemplated by PlanD. A working group had been set up under the STDC to review the development potential of the site for geopark and cycle park use as well as other water-sports recreational pursuits. As for the background work already done by PlanD, some preliminary land use surveys and land use review had been conducted. While there was no detailed land use proposal for the site at this stage, the site was currently being used as the site office for various Works Departments. PlanD would consult STDC in the course of formulating the development proposal for the site.

13. A Member opined that in addition to using the site for a cycle park, consideration should also be given to provide other recreational pursuits such as shooting on the site. In

the long-run, Government should identify more sites for various purpose-built recreational and sports activities.

14. In general, Members noted the findings of the review of the “CDA” Sites in the New Territories and agreed to PlanD’s recommendation for individual sites as detailed in the Paper. The Chairperson said that papers on the detailed rezoning proposals and amendments to the OZPs for individual “CDA” sites would be prepared and submitted to the Committee for consideration, as appropriate, in due course.

15. After further deliberation, the Committee:

- (a) noted the findings of the review of the sites designated “Comprehensive Development Area” (“CDA”) on statutory plans in the New Territories;
- (b) agreed to the retention of the “CDA” designation for the sites mentioned in paragraphs 4.1.1 and 4.2.2 and detailed at Appendices I and IV of the Paper;
- (c) agreed in-principle to the proposed rezoning of the “CDA” sites in paragraph 4.2.4 and detailed at Appendix VI of the Paper;
- (d) noted the agreement of the Committee to rezone the sites mentioned in paragraphs 4.1.3 and 4.2.3 and detailed at Appendices II and V of the Paper; and
- (e) noted the sites with potential for rezoning in paragraph 4.1.4 and detailed at Appendix III of the Paper.

[The Chairperson thanked Mr. W.K. Hui, DPO/STN, Ms. Amy Y.M. Cheung, DPO/TMYL, Mr. Ivan M.K. Chung, DPO/SKIs, Mr. Wilson W.S. Chan, DPO/TWK, and Mr. Charles C.F. Yum, STP/NTHQ, for their attendance to answer Members’ enquires. All of them left the meeting at this point.]

**Sai Kung and Islands District**

[Mr. Wilfred C.H. Cheng, Senior Town Planner/Sai Kung and Islands (STP/SKIs), was invited to the meeting at this point.]

**Agenda Item 4**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TKO/86                      Proposed Comprehensive Commercial and Residential Development with Eating Place, Educational Institution, Flat, Government Use (not elsewhere specified), Off-course Betting Centre, Office, Place of Entertainment, Place of Recreation, Sports or Culture, Private Club, Public Transport Terminus or Station, Public Utility Installation, Religious Institution, School, Shop and Services, Social Welfare Facility, and Utility Installation for Private Project, and Minor Relaxation of Maximum Non-domestic Gross Floor Area (Proposed Amendments to Approved Master Layout Plan) in “Comprehensive Development Area” zone, Area 86, Tseung Kwan O  
(RNTPC Paper No. A/TKO/86)

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16.            The Secretary reported that the application was submitted by the Mass Transit Railway Corporation Ltd. (MTRCL). Mr. T.K. Choi of Transport Department had declared an interest in this item as the Chief Traffic Engineer/New Territories West was an alternate member for the Deputy Secretary for Transport and Housing (Transport)<sup>1</sup>, who was a member of the Board of MTRCL; and Mr. Edmund K.H. Leung had declared an interest in this item as he had current business dealings with MTRCL. While Mr. Choi left the meeting temporarily for this item, Members noted that Mr. Leung had tendered an apology for not being able to attend the meeting.

[Ms. Anna S.Y. Kwong arrived to joint the meeting at this point.]

17.            The Secretary informed the Committee that a petition was held before the meeting by Ms. Christine Fong, a Sai Kung District Council (SKDC) Member. The petition

letter was tabled at the meeting for Members' reference.

### Presentation and Question Sessions

18. With the aid of a PowerPoint presentation, Mr. Wilfred C.H. Cheng, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed amendments to an approved Master Layout Plan (MLP) for a comprehensive commercial and residential development in Area 86, Tseung Kwan O. The proposed amendments included :
  - minor relaxation of maximum non-domestic gross floor area (GFA) from 50,000 m<sup>2</sup> to 71,900 m<sup>2</sup> to accommodate an extra non-domestic GFA of not more than 21,900 m<sup>2</sup> solely for the approved and planned covered pedestrian walkway system to be opened to the public for 24 hours. As such, the maximum total GFA (including both domestic GFA and non-domestic GFA) would be increased from 1,652,800 m<sup>2</sup> to 1,674,700 m<sup>2</sup>;
  - revision to the configuration of the combined public transport interchange (PTI); and
  - setback of the podium structure along the western lot boundary for provision of a 4.5 m wide pedestrian way/internal street;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) three public comments were received from a Sai Kung District (SKD) Councilor, Green Sense and a member of the public during the statutory publication period. The public comments were summarized as follows :

SKD Councillor :

- the design and planning of LOHAS Park should be optimized; the design of the proposed seafront promenade to facilitate pedestrian access; and the request to know whether the proposed promenade would be opened to public;
- daily shopping by residents should be facilitated through faster development of the proposed shopping facilities and providing shuttle bus service to Hang Hau; and
- there should be 24 hours public light bus service from LOHAS Park to Tseung Kwan O Town Centre and bus service from LOHAS Park to East Kowloon.

(the same comments were also raised by residents of The Capitol, LOHAS Park at a residents' meeting on 9.2.2010)

Green Sense :

- they objected to the application mainly in view of their concern on the odour impact from the nearby landfill on the large number of residents in the area; the high-rise buildings in LOHAS Park had caused "screen effect" in local area and had affected the ventilation of the entire Tseung Kwan O district; and it would be inadequate to serve the entire development by only one railway station;
- the number of undeveloped blocks should be reduced (from 35 blocks to 16 blocks, 12 of them be reduced from about 50 storeys to 20-28 storeys with lower ones near the seafront), and at least a 20 m wide separation between the residential blocks and a 150 m wide breezeway should be provided to let the southerly wind to enter Tseung Kwan O district;
- car parking space provision was excessive which was contrary to the railway-based transportation policy and would not encourage the use of

public transportation by the residents; and

Member of the Public :

- the scale of development should be reduced (the number of blocks should be reduced from 50 to 30); and
  - the over-reliance on the railway service to serve the development would cause much inconvenience to the residents in case of signalling failure of the railway;
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments made in paragraph 11 of the Paper. PlanD's assessments of the application were summarized below :
- in the previously approved MLPs, the applicant had all along incorporated a covered pedestrian walkway system as an integral part of the development to comply with the requirements of the Planning Brief (PB) for Area 86 endorsed by the Committee on 19.6.1998. Accordingly, an approval condition requiring the provision of a covered pedestrian walkway system had been attached to the planning permissions for all the previously approved MLPs. In the previously approved MLPs, the covered pedestrian walkway system had not been included in GFA calculation for the development. The Explanatory Statement for the "CDA" zone in Area 86 on the approved Tseung Kwan O OZP indicated that the maximum non-domestic GFA of 40,000 m<sup>2</sup> was mainly for retail purposes. It was therefore necessary to allow additional non-domestic GFA for the covered pedestrian walkway system in order to ensure its implementation without affecting the planned provision of commercial facilities within the development. The proposed relaxation of the non-domestic GFA could be considered as a technical amendment in terms of GFA calculation. Compared with the previously approved MLP of Application No. A/TKO/68, which had a total GFA of 1,652,800 m<sup>2</sup>, the currently proposed relaxation of a maximum of non-domestic

GFA of 21,900 m<sup>2</sup> for covered pedestrian walkway system amounted to about 1.33% increase in maximum total GFA of the development. The TD and Buildings Department had raised no objection to the covered pedestrian walkway system in the current application;

- the proposed relaxation of non-domestic GFA for covered pedestrian walkway system would not increase the height and bulk of the proposed comprehensive development. The Chief Architect/Advisory and Statutory Compliance, Architectural Services Department had no adverse comment from the visual impact viewpoint and the Chief Town Planner/Urban Design and Landscape, PlanD had no objection from the visual and urban design perspectives;
- the proposed amendments to the combined PTI and the proposed setting back of the podium along the western boundary for a 4.5 m wide pedestrian way/internal road, as proposed in the current application, were made in response to the requirements of the TD and the Building (Planning) Regulations respectively;
- concerned Government departments had no objection to or adverse comments on the application. In view of the comments from the concerned Government departments, previous approval conditions had been retained. Besides, previous advisory clauses had been retained and additional advisory clauses were proposed to ensure that Government requirements and concerns would be met and fully addressed; and
- the Committee in 1998 amended the draft Tseung Kwan O OZP by rezoning the site to "CDA" with a maximum development intensity, and the draft OZP was subsequently approved by the Chief Executive in Council in 1999. According to the PB endorsed by the Committee on 19.6.1998, the development potential of the site should be optimised to meet the demand for housing in Tseung Kwan O New Town and the territory. In approving the previous MLPs of the development, the Committee had duly taken into account all relevant considerations on



environmental, traffic and infrastructure aspects and other constraints as well as the requirements of the endorsed PB. The development was now in implementation stage and the proposed amendments of the current application were mainly technical in nature without involving fundamental changes to the previous MLPs. The responses to concerns raised by the public comments were :

- (i) Building intensity: the proposed relaxation of the non-domestic GFA for covered pedestrian walkway system only would not increase the height and bulk of the development;
- (ii) Provision of breezeway: under the previously approved Applications, the MLPs had been amended, among other things, to provide larger gaps between clusters of towers to improve the effect of ventilation, and to introduce a sizeable view corridor and breezeway between the towers respectively;
- (iii) Reduction in building blocks: the scale of development of the site was in accordance with the PB which was optimised to meet the demand for housing in Tseung Kwan O New Town and the territory. The previous MLPs were approved with reference to the relevant provisions of the Tseung Kwan O OZP. Ever since the first approval of the MLP of Application No. A/TKO/22, there were 50 blocks of high-rise residential buildings in the proposed comprehensive development to achieve the permissible GFA. The land grant was based on the approved MLP and had been executed;
- (iv) Design of promenade and open space: the seafront promenade was part of the proposed district open space, which would be open to the public. Relevant approval condition would be recommended;
- (v) Provision of parking facilities and public transport services: the TD had stated that the parking provision of the development was based on the Hong Kong Planning Standards and Guidelines. The TD

would review the utilization of parking spaces in Area 86 and adjust the parking provision for the remaining packages in future if necessary; and would adjust the service level of the public transport services in accordance with the development in the area as well as the change in passenger demand;

(vi) Provision of shopping facilities: the latest estimated population built up for LOHAS Park in 2010 by the MTRCL was about 10,000 persons. There were about 500 m<sup>2</sup> of existing commercial GFA in The Capitol of LOHAS Park. The MTRCL had also applied to the Lands Department for a temporary covered supermarket in LOHAS Park to be in operation in mid 2010 to further meet the residents' shopping requirements; and

(vii) Odour impact: the Director of Environmental Protection had advised that there was no sufficient evidence to indicate that odour was from the South East New Territories Landfill.

19. Members had the following questions on the application :

- should the revised MLP be approved, whether the approval was only granted to the increased GFA being sought for the proposed covered pedestrian walkway system?
- would the proposed covered pedestrian walkway system be open to the public all the time?
- whether the proposed covered pedestrian walkway system would be easily accessible to the public?
- with reference to the petition letter from the Office of Christine Fong stating the residents' pressing need for more retail facilities to serve the growing population in Area 86, whether the residents' request to expedite the provision of retail facilities could be conveyed to MTRCL?

20. Mr. Wilfred C.H. Cheng referred to Drawing A-10 of the Paper, which showed the revised MLP submitted by the MTRCL, and said that the proposed covered pedestrian walkway system was public passageway which would be opened for 24 hours daily with connections to the commercial, G/IC and recreational facilities within LOHAS Park and the vicinity. By referring Members to the document submitted by MTRCL (Appendix 4 in Appendix 1a of the Paper), the Secretary supplemented that the details of the location/routing/disposition of the covered pedestrian walkway system and its connections to the adjoining areas and facilities were clearly illustrated. The Chairperson further supplemented that should the application be approved by the Committee, it would be approved on the terms of the application as submitted to the Board.

21. Mr. Wilfred C.H. Cheng continued to explain that the MTRCL was aware of the residents' need for more provision of retail facilities in the area. There were about 500 m<sup>2</sup> of existing commercial GFA in The Capitol of LOHAS Park and the MTRCL had also applied to the LandsD for a temporary covered supermarket in LOHAS Park to be in operation in mid 2010 to further meet the residents' shopping requirements; and LandsD was processing the application.

22. A Member enquired whether the residents' request for more shopping facilities could be included as an advisory clause in the planning approval should the application be approved by the Committee. In response, the Chairperson said that the residents' request for more retail facilities was not directly related to the subject matter of the current application regarding the revised MLP to accommodate the extra GFA arising from the covered pedestrian walkway system. By referring Members to the development programme in Appendix 3.3 of MTRCL's document, the Secretary said that retail facilities would be provided in different stages of MTRCL's development in Area 86. Members noted that although there was only 500m<sup>2</sup> of retail GFA provided in Stage 1, more retail facilities would be provided in Stage 2 (48,300m<sup>2</sup>) and Stage 3 (1,200m<sup>2</sup>). Nevertheless, in view of the strong local request, Members agreed that DPO/SKIs should relay the residents' strong request for expedited and increased provision of retail facilities to the MTRCL.

Deliberation Session

23. Members agreed that the subject application could be considered as a technical amendment in terms of GFA calculation in order to ensure the implementation of the covered pedestrian walkway system. The proposed increase in non-domestic GFA had no impact on disposition, height and built form of the residential buildings, the shopping centre and the open spaces. There were also no adverse impacts on the urban design, visual impact and landscape design of the development on the site.

24. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 19.3.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of a revised Master Layout Plan (MLP) and development schedule to take into account the approval conditions (b) to (ad) below to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission and implementation of a revised landscape master plan to the satisfaction of the Director of Planning or of the TPB;
- (c) the design and provision of environmental mitigation measures within the application site, including but not limited to noise, to the satisfaction of the Director of Environmental Protection or of the TPB;
- (d) the provision and maintenance of the noise mitigation measures identified in the report on the feasibility of applying low noise road surfacing at Wan Po Road approved by the Director of Highways on 28.7.2006 or any other alternative measures, as proposed by the applicant, to the satisfaction of the Director of Environmental Protection or of the TPB;
- (e) the submission and implementation of an environmental monitoring and audit programme to ensure protection of the future residents in Area 86 from the potential industrial noise impact from the Tseung Kwan O Industrial Estate, as proposed by the applicant, to the satisfaction of the

Director of Environmental Protection or of the TPB;

- (f) the submission and implementation of a monitoring programme and contingency plan for dealing with potential landfill gas and leachate migration to the satisfaction of the Director of Environmental Protection or of the TPB;
- (g) the design and provision of emergency vehicular access, fire service installations and fire fighting water supplies to the satisfaction of the Director of Fire Services or of the TPB;
- (h) the implementation and completion of the junction improvement works proposed under the “Revised Final Report - Further Traffic Impact Assessment” dated September 2006 prior to the population intake of Stage 2 of the proposed development to the satisfaction of the Commissioner for Transport or of the TPB;
- (i) the detailed design and provision of vehicular accesses arrangement to the application site and internal roads and roadside loading/unloading facilities within the application site to the satisfaction of the Commissioner for Transport or of the TPB;
- (j) the design and provision of decking of internal roads within the application site to the satisfaction of the Director of Environmental Protection or of the TPB;
- (k) the design, construction and timing on the operationalization of the temporary and permanent combined public transport interchanges to the satisfaction of the Commissioner for Transport or of the TPB;
- (l) the design and provision of vehicle parking spaces and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the TPB;

- (m) the design and provision of a cycle track and cycle parking system serving the development to the satisfaction of the Commissioner for Transport or of the TPB;
- (n) the submission of a detailed assessment on the adequacy of pedestrian circulation facilities at the junction of Wan Po Road and Shek Kok Road and provisions of improvement measures identified therein to the satisfaction of the Commissioner for Transport or of the TPB;
- (o) the design and provision of a covered pedestrian walkway system within the application site and a footbridge across LOHAS Park Road (previously known as Road D10 or Road L861), as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;
- (p) the design and provision of structural support and connections for one footbridge across Road D9 and for two possible footbridges across Wan Po Road to the satisfaction of the Commissioner for Transport or of the TPB;
- (q) the submission of a revised visual impact assessment study for the MLP and implementation of the mitigation measures identified therein to the satisfaction of Director of Planning or of the TPB;
- (r) the design and provision of terraced podia for Package 1 and Package 2 within Stage 1 of the proposed development to the satisfaction of the Director of Planning or of the TPB;
- (s) the design and provision of drainage and sewage disposal facilities including drainage and sewerage reserved to the satisfaction of the Director of Drainage Services or of the TPB;
- (t) the designation of water main reserved within the application site to the satisfaction of the Director of Water Supplies or of the TPB;
- (u) the design and provision of a minimum of 2.3 hectares of district open

space and 7.07 hectares of local open space to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;

- (v) the design, provision, maintenance and management of a 3m green strip between the southern boundary of the application site and Road D9 as proposed by the applicant to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;
- (w) the design and provision of refuse collection points to the satisfaction of the Director of Food and Environmental Hygiene or of the TPB;
- (x) the provision of a site for an indoor recreation centre to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;
- (y) the design and provision of kindergartens to the satisfaction of the Secretary for Education or of the TPB;
- (z) the design and provision of three primary schools and two secondary schools to the satisfaction of the Secretary for Education or of the TPB;
- (aa) the design and provision of an integrated team of children and youth services centre, neighbourhood elderly centre, nursery, social centres for the elderly and residential care home for the elderly to the satisfaction of the Director of Social Welfare or of the TPB;
- (ab) the design and provision of a community hall to the satisfaction of the Director of Home Affairs or of the TPB;
- (ac) the design and provision of a police facility room to the satisfaction of the Commissioner of Police or of the TPB; and
- (ad) the submission and implementation of a staged development programme of the proposed development based on a comprehensive traffic impact assessment to the satisfaction of the Director of Planning or of the TPB.

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

- (a) that the approved MLP, together with the set of approval conditions, would be certified by the Chairman of the TPB and deposited in the Land Registry in accordance with section 4A(3) of the Town Planning Ordinance. Efforts should be made to incorporate the relevant approval conditions into a revised MLP for deposition in the Land Registry as soon as practicable;
- (b) to liaise with the Project Manager (New Territories East), Civil Engineering and Development Department and the Chief Estate Surveyor/Railway Development, Lands Department to incorporate a clause in the land grant conditions on the provision of noise mitigation measures at the southern boundary of the application site, as proposed by the applicant, to tie in with the construction of Road D9;
- (c) to liaise with the Director of Leisure and Cultural Services, the Project Manager (New Territories East), Civil Engineering and Development Department and the Chief Estate Surveyor/Railway Development, Lands Department to work out the details related to the implementation, maintenance and management of the 10 m green strip between the southern boundary of the application site and Road D9, as proposed by the applicant;
- (d) to follow the requirements as stipulated in Practice Notes for Authorized Person No. 165 and Environment, Transport and Works Bureau Technical Circular for submission of engineering works as part of the application site fell within the Strategic Sewage Disposal Scheme Tunnel Protection Area;
- (e) to phase the construction of Stage 3 development to maintain the operation of the temporary public transport interchange until completion of the permanent public transport interchange;
- (f) that the proposal of the master water meter room at the southeastern portion of the application site and plumbing works should be submitted to the



Director of Water Supplies for approval prior to the construction of the proposed plumbing works;

- (g) to apply to the Director of Lands for necessary lease modification;
- (h) to liaise with the Project Manager (New Territories East), Civil Engineering and Development Department and the Chief Highway Engineer/New Territories East, Highways Department on the cost issues related to the combined public transport interchange;
- (i) to liaise with the Director of Water Supplies and ensure that the Tseung Kwan O Seafront Salt Water Pumping Station, its access and its associated installations would not be affected;
- (j) that the approval of the application did not imply that necessary approvals would be given by any Government department. The applicant should approach the relevant Government departments direct for any necessary approvals; and
- (k) to resolve any land issue relating to the development with other concerned owners of the application site.

[The Chairperson thanked Mr. Wilfred C.H. Cheng, STP/SKIs, for his attendance to answer Members' enquires. Mr. Cheng left the meeting at this point.]

[Mr. T.K. Choi returned to join the meeting at this point.]

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

[Mr. W.K. Hui, District Planning Officer/Shan Tin, Tai Po and North (DPO/STN), and Ms. Doris S.Y. Ting, Senior Town Planner/Shan Tin, Tai Po and North (STP/STN), were invited to the meeting at this point.]

**Agenda Item 5**

**Section 12A Application**

[Open Meeting]

Y/NE-KLH/3                      Application for Amendment to the  
Approved Kau Lung Hang Outline Zoning Plan No. S/NE-KLH/11  
from “Open Storage” to “Residential (Group C)” and “Green Belt”,  
Lot 1433 in D.D. 9 and Adjoining Government Land,  
Kau Lung Hang, Tai Po  
(RNTPC Paper No. Y/NE-KLH/3)

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26.            The Committee noted that the Planning Department (PlanD) requested the Town Planning Board (the Board) to defer consideration of the application. The Secretary reported that Dr. James C.W. Lau had declared an interest in this item as he had current business dealings with Ho Tin & Associates Consulting Engineers Ltd., who was a member of the consultancy team for the applicant. As PlanD had requested for a deferment of consideration of the application, Members agreed that Dr. Lau could be allowed to stay at the meeting.

27.            The Committee noted that on 16.10.2009, the applicant submitted the application to propose to rezone the application site from “Open Storage” (“OS”) to “Residential (Group C)” (“R(C)”) and “Green Belt” (“GB”) on the approved Kau Lung Hang Outline Zoning Plan No. S/NE-KLH/11. On 24.12.2009, the Secretary of the Board received the further information (FI) containing new and revised technical assessments from the applicant’s agent, which the Secretary of the Board under the delegated authority of the Board decided to accept but not to exempt from the publication and recounting requirements. The application was therefore scheduled for consideration by the Committee on 19.3.2010. The applicant’s agent subsequently submitted FIs on 5.1.2010, 14.1.2010 and 23.2.2010 in response to departmental comments and all the information were accepted and exempted from the publication and recounting requirements by the Secretary of the Board under the delegated authority of the Board. On 3.3.2010, the applicant’s agent further wrote to the Secretary of the Board to clarify that he would not proceed with the interim option to install a temporary sewage treatment plant in the proposed residential development scheme, and instead, the proposed sewage treatment plant would be replaced by a sewage pumping station to pump

the sewage up the rising main. He also indicated that the implementation of the residential development would be delayed until such time as the permanent sewer connection became available. As the FI submitted on 3.3.2010 did not involve any changes in development parameters, the Secretary of the Board had accepted and exempted the FI from publication and recounting requirements under the delegated authority of the Board. As changes of ancillary major utility installation for the proposed residential development in the scheme were involved, further consultation with relevant Government departments was required. Since the latest FI was submitted on 3.3.2010, it was not expected that there was enough time for the concerned Government departments to respond. As such, PlanD recommended to defer the decision on the subject application for two weeks.

28. After deliberation, the Committee decided to defer a decision on the application for two weeks as requested by PlanD pending further consultation with relevant Government departments on the FI submitted on 3.3.2010. The Committee also agreed that the application should be submitted to the Committee for consideration on 9.4.2010.

## **Agenda Item 6**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/696                      Proposed Residential Development with Club House and Car Parking Facilities (Extension of Time for Commencement of Development for a Period of 12 Months for the Previous Approved Master Layout Plan under Application No. A/ST/577) in “Comprehensive Development Area” zone, Lots 698 S.B, 698 S.C, 698 S.D, 698 S.E, 698 S.F, 698 S.G, 698 S.H, 698 S.I, 698 S.J, 698 S.L, 698 S.M, 698 S.N, 698 S.O, 698 RP (part) and adjoining Government land in D.D. 181, Heung Fan Liu, Sha Tin (RNTPC Paper No. A/ST/696)

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29. The Secretary reported that the application was submitted by a subsidiary of Sun Hung Kai Properties Ltd. (SHK). Mr. Alfred Donald Yap and Mr. Y. K. Cheng had declared an interest in the item as they had current business dealings with SHK. The Committee noted that Mr. Yap had left the meeting temporarily for this item while Mr.

Cheng had not yet arrived to join the meeting.

30. The Secretary informed the Committee that a letter dated 18.3.2010 from the Legislative Council (LegCo) Member, Honourable Emily Lau Wai Hing; a petition received before the meeting on 19.3.2010 from Mr. Law Yuk Kai, Director of Hong Kong Human Rights Monitor; and two public comments received on 16.3.2010 from the LegCo Member, Honourable Nelson Wong Sing Chi, and a member of the public (Lo Fung Kwan), which were not included in the Paper, were tabled at the meeting for Members' reference. The Secretary said that while the two public comments were received during the statutory publication period, the two letters from the Honourable Emily Lau Wai Hing and Mr. Law Yuk Kai were not received accordingly to the statutory procedure pertaining to planning applications. Notwithstanding, these two letters were also tabled for Members' information. As regards the two public comments being tabled, it would be covered in the presentation by the DPO/STN in respect of the application.

#### Presentation and Question Sessions

31. Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the applicant sought planning permission for a proposed residential development with club house and car parking facilities at the "Comprehensive Development Area" ("CDA") site in Heung Fan Liu for a period of 12 months to facilitate the on-going land exchange of the site. The development parameters of the proposed development were the same as those of the Application No. A/ST/577 approved by the Committee on 4.4.2003, i.e. 816 flats with a domestic gross floor area (GFA) of 52,156m<sup>2</sup> to be developed in two phases. Phase 1 comprised four blocks of 21 to 26 domestic storeys above a three-storey car park podium and Phase 2 comprised one domestic block of 14 storeys. There were no technical submissions attached to the application. The justifications put forth by the applicant in support of the application were detailed in Appendix Ia of the

Paper and the main points were summarised as follows :

Technical Considerations

- the application site was the subject of three previous planning approvals for a proposed residential development (Application Nos. A/ST/536, A/ST/571 and A/ST/577). Various technical assessments, including aspects on traffic, urban design and visual, landscape and tree, environment and ecological, drainage and sewerage as well as geotechnical and natural terrain had been prepared and were considered acceptable by relevant Government departments under the respective applications;
- given that there was no change in the planning circumstances, and that the development parameters in the current scheme were identical to the latest approved scheme under Application No. A/ST/577, in particular, the total domestic GFA and number of units remained unchanged, it was envisaged that no adverse impact would arise from the proposed development with the incorporation of the mitigation measures proposed in the previously approved scheme;
- a list of approval conditions was imposed under the latest approved scheme Application No. A/ST/577, with these approval conditions, the applicant was required to fulfil the requirements of submission and implementation/provision of a revised MLP, a revised Master Landscape Plan, a revised Drainage Impact Assessment, sewerage connections, natural terrain landslide hazards, etc. to the satisfaction of relevant Government departments which were envisaged to be imposed on the current application if approved. Thus, the technical acceptability of the proposed development could be warranted at the subsequent detailed design stage;

*Additional Time Required to Facilitate the Execution of Land Grant*

- the development of “CDA” site usually involved complicated technical issues and required prolonged periods of time for implementation and completion. The development of the application site was not an exception and was also subject to a large number of design constraints and technical issues. The applicant had actively pursued the implementation of the development by making an application for a land exchange. Upon completion of the land exchange, the new private lot would be known as Sha Tin Town Lot No. 537. As the land grant application was at its final stage pending the outcome of the premium appeal from the Government, an extended validity of the planning permission by a period of 12 months was essential for the successful execution of the land grant;

*A Procedural and Administrative Submission to Facilitate Transfer of Entitlement of Planning Approval*

- under s.16A(2) of the Town Planning (Amendment) Ordinance 2004 [the TP(A)O / the Ordinance], only “*the person to whom the permission is granted*” might apply to the Board to amend the planning approval. Since the original application No. A/ST/577 was approved in 2003, there had been changes in the land ownership of the subject lot. The “original applicants” of the Application No. A/ST/577 involved five signatories, who were the then owners of the lot. Three of the signatories were the applicants of the first application (under Application No. A/ST/577-1) to extend the planning permission under the pre-amended Ordinance since the other two signatories had passed away. The applicant acquired the lot in April 2007 and was the current owner of the lot. Considering that the applicant could only obtain authorization for the s.16A(2) application to extend the planning permission for the lot from two of the three original applicants, and hence risk the chance of rendering the s.16A(2) application unacceptable to the TPB, and the fact that the validity of the planning permission under Application No. A/ST/577-1 would expire on 4.4.2010, the applicant was left with no choice but to submit the current

application based on a MLP and development parameters which were identical to the latest approved scheme under Application No. A/ST/577. The current application was a procedural and administrative submission to facilitate transfer of entitlement of planning approval to the current land owner with a validity period of 12 months to facilitate the on-going land exchange application; and

*Current Scheme was Identical to the Previously Approved Scheme under Application No. A/ST/577 and No Adverse Impacts were Envisaged*

- as the current application had been prepared and submitted based on the same approved development scheme under Application No. A/ST/577 with an identical MLP and development parameters, the applicant considered that it was not necessary to resubmit any technical assessments in the current application; and no adverse impacts were envisaged with the incorporation of mitigation measures previously proposed under Application No. A/ST/577;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, a total of 27 comments including one from the LegCo Member, Honourable Wong Sing Chi, two comments from Sha Tin District Council (DC) Member, Mr. Tang Wing Cheong and Mr. Mok Kam Kwai, one from the Chairman of Pak Tin Area 4, 5, 6 Mutual Aid Committee, one from the Chairman of Association of Pak Tin Village Area 5, and 22 from the public were received. Among these, 13 were provided with standard comments. The public comments were summarized in paragraph 10 of the Paper. All the public comments raised concerns/objection to the application mainly on the aspects of excessive building height; adverse impacts on the ecology and environment; adverse impacts on the daily life on nearby villagers during construction in terms of road safety, construction noise, air pollution, structural stability of temporary structures, landslide danger, water and electricity supply;

adverse possession claims and request for confirmation of the right to use the existing footpath; non-disclosure of information to support the application; and non-disclosure of ownership dispute in the application;

- (e) the District Officer (Sha Tin) (DO/ST) noted that the Chairman of Pak Tin Area 4, 5, 6 Mutual Aid Committee, Mr. Chan Sai Tak, would raise objection to the application and there were comments from the Office of DC Member, Mr. Tang Wing Cheong, towards the application. DO/ST said that the concerns of Mr. Chan and Mr. Tang should be taken into account and addressed as far as possible in considering the application; and

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

- (f) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments made in paragraph 11 of the Paper. PlanD's assessments of the application were summarized below :

- it had been the long established practice that planning approval was not given on a personal basis, but ran with the land. With the commencement of the TP(A)O, a new s.16A was introduced which provided for application to the Board for amendment to the planning approvals. However, s.16A(2) stipulated only "*the person to whom the permission is granted*" might apply to the Board to amend the planning approval. The original applicant, according to Town Planning Board Guidelines No. 35B (TPB PG-No. 35B), could apply to the Board to extend the validity period of the planning permission for an aggregate period not longer than the originally approved duration for commencement of the approved development proposal. Together with the extension, a planning approval with a validity period of four years could be extended for another four years;
- Application No. A/ST/577 was approved with conditions under the pre-amended Ordinance on 4.4.2003 for a validity period of four years. The approval was extended once for three years up to 4.4.2010 by the



Director of Planning on 27.3.2007 under the delegated authority of the Town Planning Board (TPB/Board). Hence, theoretically, it could be said there was still a one-year time before the aggregate extension period would exceed the four years duration of the validity period in the original approval for No. A/ST/577;

- with the change in ownership, the current applicant who acquired the application site in 2007 had not been able to obtain consent from the original applicants. Consequently, he could not apply for the extension of the planning approval for the remaining one year. Hence, a fresh s.16 application was required. The application was in effect to seek the agreement of the Board to extend the planning permission for one year to allow time for the completion of the land exchange of the site which was already at an advanced stage. As the subject application was the same as the approved Application No. A/ST/577 and there had been no change in planning circumstances, the subject application was considered basically procedural. Technical submissions were not considered as essential for consideration of the application. All conditions of the previously approved scheme No. A/ST/577 were proposed for inclusion in the planning approval to address departmental concerns. An additional condition was included to address the concern of TD on parking provision; and
  
- although there were some local objections, it should be noted that the zoning of the application site was “CDA” and the “Village Type Development” (“V”) zone was not affected. The local concerns had in fact been considered before by the Committee in approving the previous application and could be dealt with by the approval conditions and advisory clauses as suggested in paragraph 12.2 of the Paper.

32. In relation to the comments from the villagers and locals on the aspects of nature conservation, visual impact and infringement of the individual rights, the Chairperson enquired about the details of the proposed development as approved by the Board under Application No. A/ST/577. Referring to Drawing A-1 of the Paper, Mr. W.K. Hui

explained that the northern portion of the site, which were mainly slope areas, would be designated as a Greenbelt Conservation Area. The southern portion of the site would be developed for residential use in two phases, with a total site coverage of 14.3% and a domestic plot ratio of 1.18. Phase 1 comprised four blocks of 21 to 26 domestic storeys above a three-storey car park podium and Phase 2 comprised one domestic block of 14 storeys. The land exchange application for the proposed residential development approved under Application No. A/ST/577 was at an advanced stage in which the basic terms for the land exchange had been accepted by the owner. As some lots in the application site were with adverse possession claims, these lots were excluded from the land exchange application of the site being processed by the Lands Department (LandsD), resulting a difference between the area of the application site and that of the proposed regrant site.

33. Members had the following questions / concerns on the application :

- it was noted that certain lots in the northern portion of the site within the proposed Greenbelt Conservation Area were not under the ownership of the applicant, how could these lot owners develop their land?
- what were the land disputes referred to in the comments received during the statutory publication period and in the letters tabled at the meeting? How could the disputes be resolved?
- it was noted that complaints about insufficient information of the application had been released for public consultation were mentioned in the letters tabled at the meeting and in the public comments received during the statutory publication period. How were the locals/villagers notified on the application?
- it was noted from paragraph 9.1.1(b) of the Paper that the area to be surrendered in the proposed land exchange (about 42,006.8m<sup>2</sup>) was different from the site area as per Application No. A/ST/577 (about 44,200 m<sup>2</sup>). What were the details of the land exchange application?

34. Mr. W.K. Hui made the following responses:

- the implementation of the Greenbelt Conservation Area would be in accordance with the approved MLP under Application No. A/ST/577 and it would be governed by the approval condition (e) which required the applicant's submission and implementation of the land use and management proposals for the Greenbelt Conservation Area to the satisfaction of the Director of Lands or the Board;
  
- as shown in Drawing A-1 of the Paper, those lots in disputes with adverse possession claims were located within the application site along its northeastern boundary and they were excluded from the proposed land exchange application being processed by LandsD. The GFA derived from those lots was proposed to be accommodated in Phase 2 of the development under the approved MLP. If the owners of those lots in disputes would like to pursue development at their own lots, a s.16 planning application with a MLP together with supporting technical assessments in accordance with the requirements of the statutory Notes of the "CDA" zone would be required for approval by the Board. Apart from the adverse possession claims, there were other comments from the local villagers complaining about the loss of access to their land as a result of the proposed development. To address the concern on local access, a local access had been reserved in the approved MLP providing access from the south to the northeastern part of the site. It was recommended that an approval condition requiring the provision of access to the satisfaction of the Commissioner for Transport or the Board to be stipulated in the planning approval should the Committee approve the subject application;
  
- the notification for public inspection of the subject application had been conducted according to the established procedures, including the publication in local newspapers, posting site notice on the application site, and consultation with the locals through the District Office. Concerning the local comments on the non-disclosure of information, the comments seemed primarily related to the lack of proper planning documents and technical assessments reports in the applicant's submission, it should be noted that

the major development parameters and the layout of the MLP of the subject application were essentially the same as those approved under Application No. A/ST/577 and there had been no change in planning circumstances since the approval of the Application No. A/ST/577. In this regard, concerned Government departments had no adverse comment on the application. As the approval sought was only for one year, the subject application was considered basically procedural pending completion of the relevant land exchange and technical submissions were therefore not considered as essential for consideration. In response to the comments stated in Mr. Law's letter that in the past, PlanD and the Board had not posted any site notice to notify the locals of the applications according to the statutory requirements, the Secretary informed Members that, with the exception of the current application, the previous Applications Nos. A/ST/536, A/ST/571 and A/ST/577 were respectively submitted in 2001, 2002 and 2003, which were made before the enactment of the TP(A)O. Hence, the posting of site notice was not a statutory requirement for the previous applications. For the current application, a site notice was posted in accordance with the current statutory requirement. Notwithstanding, it was noted that Mr. Law still considered that there was insufficient information in the submission as the technical assessments and many details of the development were not provided; and

- the site area to be surrendered by the applicant in the land exchange application would be 42,006.8m<sup>2</sup> after excluding the lots with adverse possession claims. The maximum GFA for Phase 1 of the development would be 48,380m<sup>2</sup>. In this regard, Mr. Simon K.M. Yu supplemented that under the on-going land exchange application, the maximum GFA for Phase 1 of the development was 48,380m<sup>2</sup>, which was the same maximum GFA approved for Phase 1 under Application No. A/ST/577.

### Deliberation Session

35. The Chairperson said that Members should consider if the subject application could be viewed as a procedural matter requesting for an extension of a previously granted planning permission. If it was considered as a technical procedure, technical submissions

would not be considered as essential for consideration of the application. A Member said that although an one-year extension of the planning permission could be granted in view of previous approval, there was still the concern that the issue on land disputes would persist and could not be addressed.

36. On the issue of land disputes, the Secretary informed Members that the land disputes in relation to adverse possession claims was all along an issue pertaining to the previous applications at the site. As such, the MLP for the site boundary under the applications in 2002 (No. A/ST/571) and 2003 (No. A/ST/577) was revised thereby affecting the split of total domestic GFA between Phases 1 and 2, with Phase 2 comprising the GFA derived from those lots with adverse possession claims. In this connection, the land disputes were not a new issue. The Chairperson also said that the land disputes arising from the adverse possession of lots within the site were private land matter, which was not a material planning consideration in assessing the planning application.

37. In response to the Chairperson's enquiry, Mr. Simon K.M. Yu informed Members that the land exchange application was at an advanced stage and it had been processed on the basis of the approved MLP. Whilst the present applicant was the registered owner of the application site, in view of the land disputes, those lots held under adverse possession by existing residents on the site had been excluded from the proposed regrant site and the requirement to provide a right of way for these lots had also been stipulated. The land premium was now the only outstanding issue. LandsD would make reference to the Committee's decision on the subject application at this meeting in processing the land exchange application. Members noted that upon execution of the land grant for the proposed development at the site, the approved development would constitute a commencement of development.

38. On the issue of whether the subject application could be viewed as a procedural matter, Members noted that the issue was complicated by the fact that upon enactment of the TP(A)O, application for extending the validity of planning permission under s.16A(2) could only be made by the original applicants. The present applicant, however, had not been able to obtain the consents from the original applicants as two of them were deceased and another one refused to give the consent. In order to extend the validity of the planning application for completion of the land exchange, the applicant had no choice but resorted to submit a

fresh s.16 application, with the same development parameters under the approved Application No. A/ST/577. In this context, the Chairperson requested Members to consider whether the subject application was a technical procedure. Otherwise, it would be considered as a fresh application and supporting documents would be required from the applicant for consideration by the Board.

[Mr. Y.K. Cheng arrived and immediately left the meeting temporarily at this point.]

39. Noting that there was a change in the ownership/applicant for the subject application as compared with the previous application No. S/ST/577, a Member was concerned if there would be a problem in granting the permission from the legal point of view. In response, the Chairperson said that whilst the planning permission should run with the land, for s.16A(2) application, it had to be submitted by the same applicant. Given the unique circumstances for the subject application, the present applicant could not make a s.16A(2) application to extend the validity of the previous planning permission. Considering the substantial work already done by the present applicant with respect to the land exchange application, Members might consider if any sympathetic consideration could be given in granting the one-year extension of approval period so as to allow time for the applicant to complete the land exchange application.

40. Members had a lengthy discussion on whether the application could be considered as a technical procedural matter. Two Members opined that as the subject application was submitted as a fresh application under s.16 of the Ordinance, it could not be considered as a technical procedural matter requesting for an extension of the previously approved planning permission. According to the statutory Notes of the “CDA” zone of the Approved Sha Tin OZP No. S/ST/23, an applicant for permission for development on land designated “CDA” should prepare a MLP to be supported by respective technical information/assessments, including the landscaping and urban design proposals, an environmental assessment report, a drainage and sewerage impact assessment report, a traffic impact assessment report, etc. However, the applicant had not submitted such technical assessments in the subject application for the Committee’s consideration. Hence, the application could not be supported. The above views were shared by other Members.

41. After further discussion, Members agreed that the subject application should not

be considered as a technical procedural matter requesting for an extension of a previously granted planning permission. As the applicant had not provided any technical assessments to support the application, after further deliberation, the Committee decided to reject the application and the reason was :

- The applicant failed to submit technical assessments to support the proposed development in the form of a Master Layout Plan as required under the statutory Notes of the “Comprehensive Development Area” zone under the Approved Sha Tin Outline Zoning Plan No. S/ST/23.

[Mr. Alfred Donald Yap and Mr. Y. K. Cheng returned to join the meeting at this point.]

[Mr. Timorthy K.M. Ma and Dr. C.N. Ng left the meeting temporarily, and Mr. B.W. Chan left the meeting at this point.]

### **Agenda Item 7**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/FSS/187                      Temporary Public Vehicle Park (Private Car) for a Period of 2 Years  
in “Open Space” and “Residential (Group A)” zones,  
Lots 3035RP, 3036S.A, 3036RP, 3037, 3044, 3045RP in D.D. 51  
and Adjoining Government Land, San Wan Road, Fanling  
(RNTPC Paper No. A/FSS/187)

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

42.            Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a)    background to the application;

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

- (b) the temporary public vehicle park (private car) for a period of 2 years;

[Mr. Timothy K.W. Ma and Dr. C.N. Ng returned to join the meeting at this point.]

- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) two public comments were received during the statutory publication period. The first comment was from a member of the public who indicated no comment on the application. The second comment was from the Chairperson of the Management Committee of the Incorporated Owners of Fanling Centre raising strong objection to the application as the public car park had adversely affected the residents of Fanling Centre and 17 complaints had been received mainly on the grounds of lighting and noise nuisance at mid-night and hygiene problem of the public car park. The Incorporated Owners of Fanling Centre had written to the operator of the public car park requesting for improvements, but there had been no response from the operator of the public car park so far. The District Officer (North) advised that repeated complaints were received from a resident of Fanling Centre who raised strong objection to the application mainly for the reasons of lighting disturbance, extended operation hours (24 hours daily), excessive provision of parking spaces (100 car parking spaces on site), illegal parking on roadside causing safety hazard to pedestrians, and disturbance at mid-night and early morning from continuous honking, buzz alarm sounds and noise from vehicles going in and out the rugged and unpaved road of the public car park; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments made in paragraph 11 of the Paper. Majority of the application site was zoned “Residential (Group A)” (“R(A)”) with the remaining part zoned “Open Space” (“O”) on the Outline Zoning Plan and the site was designated as “Local Open Space” (“LO”) on the relevant Layout Plan (“LP”) of the district. The District Lands Office/North had received a land exchange application from the land owner



for a proposed commercial/residential development on the “R(A)” portion of the site. Although the site was zoned “LO” on the LP, the Director of Leisure and Cultural Services had indicated that there was no implementation programme for the planned “LO” and no in-principle objection to release the site given that sufficient land had already been reserved in Fanling/Sheung Shui New Town to meet the long-term open space requirements of the planned population in accordance with the standards as stipulated in the Hong Kong Planning Standards and Guidelines. The temporary public car park was only an interim use on the site and would not frustrate the long term planning intention of the “R(A)” zone. The temporary public car park was not incompatible with the surrounding land uses. Concerned Government departments had no objection to the application. Majority part of the application site was the subject of four planning applications (Nos. A/FSS/103, 137, 159 & 169) for public vehicle park which were approved with conditions by the Board on review or the Committee in 1998, 2001, 2004 and 2007 respectively each for a period of 3 years. For the latest approved application (No. A/FSS/169), the applicant had complied with all the approval conditions except the condition on operation hours (i.e. 0700 to 2300), resulting in revocation of the planning permission. To support the current application and to address the concerns on night time operation, the applicant had proposed improvement measures including posting of sign to inform customers of the permitted operation hours and blocking of car park entrance during non-operation hours. As the Transport Department advised that the subject temporary car park would be a relief to the problem of shortage in parking spaces in the North District and the applicant had demonstrated sincerity in complying with condition on operation hours, sympathetic consideration could be given to this application. However, as the last approval (Application No. A/FSS/169) was revoked due to non-compliance with the approval condition and there were strong local objection and complaints, a shorter approval period of 12 months and shorter compliance periods were proposed to closely monitor the situation. Moreover, the applicant would be advised that should the applicant fail to comply with the approval conditions again resulting in the revocation of the

planning permission, sympathetic consideration would not be given to any further application. As for the local objections, according to DO(N), the car park operator had arranged improvement to the lighting of the car park and the lighting disturbance had been resolved. Regarding the noise nuisance, the applicant had proposed improvement measures to address the concerns on night time operation. Relevant approval conditions were recommended and the applicant would be advised to liaise with local residents to address their concerns.

43. Members had no question on the application.

#### Deliberation Session

44. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 12 months until 19.3.2011, instead of 2 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no vehicles other than private cars were allowed to be parked on the site during the planning approval period;
- (b) the operating hours of the public car park should be restricted to 0700 to 2300 hours during the planning approval period;
- (c) 'No Horning' signs should be provided on site during the planning approval period;
- (d) signs showing the permitted operation hours of the public car park should be provided at the entrance of the public car park during the planning approval period;
- (e) the provision of dim lighting within the site at all times during the planning approval period;

- (f) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.6.2010;
- (g) in relation to (f) above, the implementation of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (h) the submission of a tree preservation and landscape proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.6.2010;
- (i) in relation to (h) above, the implementation of the tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.9.2010;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (k) if any of the above planning conditions (f), (g), (h) or (i) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) prior planning permission should be obtained before continuing the development on the application site;
- (b) a shorter approval period of 12 months and shorter compliance periods were given to closely monitor the situation and the compliance of approval conditions. Should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission,

sympathetic consideration would not be given by the TPB to any further application;

- (c) to resolve any land issues relating to the development with the concerned owners of the application site;
- (d) to liaise with the District Lands Officer/North, Lands Department on Special Licence, Short Term Waiver and Short Term Tenancy for the public car park on the application site;
- (e) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department to strictly adhere to the specified operation hours and observe engineering conditions governing the vehicular ingress/egress and access arrangement, etc. as deem necessary to eliminate potential hazard to pedestrians due to the vehicles coming in/from the public car park;
- (f) to note the comments of the Director of Fire Services that the applicant should provide and properly maintain a portable hand operated approved appliance for the watchman shed throughout the tenancy period. Upon completion of installation of fire service installations, the applicant was advised to submit 'Certificate of Fire Service Installations and Equipment (FS 251)' to his Office;
- (g) to note the comments of the Chief Engineer/Development(2), Water Supplies Department that the application site was located within the Water Supplies Department flood pumping gathering ground; and
- (h) to note the local objection on lighting disturbance and noise nuisance caused by the public vehicle park, and to liaise with the concerned parties to address their concerns.

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

## **Agenda Item 8**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/FSS/188                      Proposed House (New Territories Exempted House - Small House)  
in “Green Belt” zone, Government Land in D.D. 91, Ng Uk Tsuen,  
Sheung Shui  
(RNTPC Paper No. A/FSS/188)

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### **Presentation and Question Sessions**

46.            Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a)    background to the application;
- (b)    the proposed house (New Territories Exempted House - Small House);
- (c)    departmental comments – the comments from the concerned Government departments were :

[Mr. Simon K.M. Yu left the meeting temporarily at this point.]

- the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application in view of the fact that the application was not in line with the planning intention of the “Green Belt” (“GB”) zone, and approval of the proposed development would set an undesirable precedent for other similar applications;
- the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application as Small House should be confined within “Village Type Development” (“V”) zone as far as possible where the necessary traffic and transport facilities had been planned and provided. Although significant traffic

associated with the proposed development was not expected, such development, if permitted, would set an undesirable precedent case for similar applications in the future and the resulting cumulative adverse traffic impact could be substantial; and

- the Chief Town Planner, Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application from the landscape planning point of view;
- (d) three public comments were received during the statutory publication period. The first public comment was from a member of the public who indicated no comment on the application. The second public comment was from a resident of Royal Green commenting that the area of the application site was more suitable for use as community facilities or park. The third public comment was from Designing Hong Kong Limited objecting to the application on the grounds that the proposed development fell within an area zoned “GB” and the area lacked a plan for a sustainable village layout to ensure the health and well being of current and future residents and a quality urban design. The District Officer (North) had no comment on the application and advised that the indigenous inhabitants representative (IIR) and residents representative (RR) of Ng Uk Tsuen supported the application, while the Chairman of the Sheung Shui District Rural Committee and the concerned North District Council member had no comment on the application; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. According to the latest estimate by PlanD, there was insufficient land in the “V” zone of Ng Uk Tsuen to meet the demand for Small House development. The application generally complied with the “Interim Criteria for Consideration of Application for New Territories Exempted House(NTEH)/Small House in New Territories” (“Interim Criteria”) in that both the application site and the footprint of the proposed Small House fell entirely within the village ‘environs’ of Ng Uk Tsuen, and there was a

general shortage of land in meeting the demand for Small House development in the “V” zone of the same village. Sympathetic consideration could be given to the application. The application generally complied with the relevant TPB Guidelines No. 10 on development within “GB” zone in that the application site was in close proximity to the village proper of Ng Uk Tsuen and there was insufficient land to meet the Small House demand. Moreover, the proposed Small House would have a septic tank for sewage disposal and significant adverse sewerage impact was not anticipated. In this regard, the Director of Environmental Protection had no adverse comment on the application. Besides, the application site was easily accessible via a footpath from the nearby Pak Wo Road which was well served by public transport. The proposed Small House was also not incompatible with the adjacent village setting of Ng Uk Tsuen and the high-rise residential development to the east and south of the site. Although DAFC did not support the application as the proposed Small House was not in line with the planning intention of “GB” and CTP/UD&L, PlanD had reservation on the application from the landscaping point of view, it was noted that the application site was located in an open field with no existing trees and it would not affect any existing trees. As to AC for T/NT’s reservation on traffic ground, the application site was located immediately outside the “V” zone of Ng Uk Tsuen and accessible by an existing footpath. It was envisaged that the traffic associated with the proposed development would not be significant. Regarding the public comment that there was a lack of a plan for a sustainable village layout, concerned Government departments had no adverse comment on the application. Two similar applications to the immediate north of the application site were approved by the Committee on 12.2.2010 mainly on the consideration that the applications generally complied with the “Interim Criteria” and the proposed Small House developments were not incompatible to the adjacent village setting. There had been no change in planning circumstances since the previous approvals.

47. Members had no question on the application.

Deliberation Session

48. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 19.3.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of drainage proposals to the satisfaction of the Director of Drainage Services or of the TPB; and
- (b) the provision of fire fighting access, water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that suitable noise mitigation measures should be provided to mitigate nuisances from the adjacent road network;
- (b) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal application referred by Lands Department; and
- (c) to note that the permission was only given to the development under application. If provision of an access road was required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complied with the provisions of the relevant statutory plan and obtained planning permission from the TPB where required before carrying out the road works.



**Agenda Item 9**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTS/287      Renewal of Planning Approval for Temporary Storage of Antique Cars and Household Items under Application No. A/NE-KTS/246 for a Period of 3 Years in “Green Belt” zone, Lot 3336 in D.D. 91 and Adjoining Government Land, Lin Tong Mei, Kwu Tung South, Sheung Shui  
(RNTPC Paper No. A/NE-KTS/287)

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**Presentation and Question Sessions**

50.      Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the renewal of planning approval for temporary storage of antique cars and household items under Application No. A/NE-KTS/246 for a period of 3 years;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) one public comment indicating “no comment” on the application was received during the statutory publication period. The District Officer (North) advised that he had consulted the concerned North District Council member, the Chairman of Sheung Shui District Rural Committee, Indigenous Inhabitants’ Representative and Residents’ Representative of Lin Tong Mei. All of them had no comment on the application; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 11 of the Paper. The application site was related to four previous planning applications for

similar uses which were approved by the Committee with conditions. The latest Application No. A/NE-KTS/246 for storage of antiques cars and household items was approved by the Committee on 23.3.2007 for a temporary period of three years up to 23.3.2010. It was noted that the applicant had complied with all the approval conditions of the previous applications. The current application was to seek renewal of planning approval under Application No. A/NE-KTS/246 for a period of three years. The application generally complied with the relevant assessment criteria in the TPB Guidelines on “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34A) in that there had been no change in planning circumstances since the Committee approved the previous applications, and planning conditions under the previous approval had been complied with. Moreover, the temporary uses under application were considered not incompatible with the surrounding land uses. It was also considered that approval of the renewal application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “Green Belt” zone. The uses under application would not have adverse environmental, drainage, traffic and landscape impacts on the adjoining areas and local road network. The application was generally in line with the TPB Guidelines for “Application for Development within “Green Belt” zone (TPB PG-10). Concerned Government departments had no adverse comment on or no objection to the application. There was no local objection or public comment against the application.

[Mr. Y.K. Cheng returned to join the meeting at this point.]

51. In response to the Chairperson’s enquiry, Mr. W.K. Hui referred Members to Appendix 1a of the Paper, which was the supplementary information submitted by the applicant on 13.3.2010 to replace section 8 of the Application Form submitted on 19.2.2010. As shown in the supplementary information, the applicant clarified that the subject application covered five existing structures, with three structures for storing antique cars and two structures for storing household goods. The existing residential dwelling adjacent to the subject temporary structures was not covered by the application. There was no information

in hand as to whether or not the residential use was an existing use permitted under the OZP. Upon the Chairperson's request, Mr. W.K. Hui would check if the residential use complied with the provisions of OZP and would take any necessary follow-up action.

### Deliberation Session

52. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the existing drainage facilities on the application site should be properly maintained at all times during the planning approval period;
- (b) the submission of photographic record of conditions of the existing drainage facilities on site as previously implemented on the application site under applications No. A/NE-KTS/180 & No. A/NE-KTS/246 within 3 months from the date of approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.6.2010;
- (c) the submission of water supplies for fire fighting and fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (d) in relation to (c) above, the provision of water supplies for fire fighting and fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.12.2010;
- (e) the submission of tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.9.2010;
- (f) in relation to (e) above, the implementation of tree preservation and

landscape proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.12.2010;

- (g) if the above planning condition (a) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (h) if any of the above planning conditions (b), (c), (d), (e) or (f) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) to liaise with the District Lands Officer/North, Lands Department regarding the Short Term Wavier and Short Term Tenancy on the application site;
- (b) to note the comments of the Chief Engineer/Development(2), Water Supplies Department that the application site was located within the Water Supplies Department's flood pumping gathering ground;
- (c) to note the recommendations of the Director of Fire Services regarding the fire service installations proposal at Appendix VI of the Paper and that detailed fire safety requirements would be formulated upon the receipt of formal submission of general building plans;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the granting of the planning approval should not be construed as condoning to any structures existing on the site under the Buildings Ordinance and the allied regulations. Actions appropriate under the Buildings Ordinance or other enactment might be taken if contravention was found; and
- (e) to note that the permission was given to the use/development under

application. It did not condone any other use/development which currently existed on the site but not covered by the application. The applicant should be requested to take immediate action to discontinue such use/development not covered by the permission.

### **Agenda Item 10**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LK/56            Proposed Filling of Land and Pond for Permitted Agricultural Use  
in “Agriculture” zone,  
Lots 504 S.A to 504 S.J and 504 RP in D.D. 45 and  
Adjoining Government Land, Kai Kuk Shue Ha, Luk Keng  
(RNTPC Paper No. A/NE-LK/56)

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54.            The Secretary reported that as the World Wide Fund for Nature (WWF) Hong Kong and the Conservancy Association (CA) had submitted comments on this item, Professor David Dudgeon and Dr. C.N. Ng had declared an interest in the item. Professor Dudgeon was a trustee/Member of the Mai Po Management and Development Committee of the WWF, and Dr. Ng was the Director of the CA in 2009/2010. Professor Dudgeon and Dr. Ng left the meeting temporarily for this item.

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

55.            Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed filling of land and pond for permitted agricultural use;
- (c) departmental comments – the comments from the concerned Government departments were :

- the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the application site fell within the Luk Keng Marsh Priority Site for Enhanced Conservation identified under the New Nature Conservation Policy. The ecologically important site included mainly marshes, fishponds and *fung shui* woods which supported a high diversity of dragonflies and other wetland fauna and flora. As the site formed part of the ecologically important wetland habitat of the Priority Site, the proposed land/pond filling would lead to loss of wetland in the area. The site was bounded directly on the north-western side by an Ecologically Important Stream (EIS) at Kai Kuk Shue Ha and that the site of the proposed land/pond filling was just about 1 m apart from the EIS. There was no information in the application to demonstrate that the potential impact on the stream and its riparian zone could be mitigated. Prior to the submission of the application for land and pond filling by the applicant, the site had already been filled with a mixture of soil, stones and construction waste. The unauthorised filling works had partly destroyed the wetland habitat of the site and was deemed to have negative ecological impacts on the stream and its riparian zone. Should the application be approved, it would set an undesirable precedent for unauthorised filling of land and pond in the area. As the subject site had been filled with a mixture of soil, stones and some construction wastes, the current land condition was not suitable for cultivation and was inconsistent with the intended use in the application;
  
- the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) objected to the application for the reasons that no preventive measures were proposed to protect the flow in the adjacent ecologically important stream from being affected by the proposed land filling; and no flood mitigation measures were proposed to alleviate the increase in flooding risk due to decrease in flood detention capacity caused by the proposed filling of the pond; and
  
- the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as

the filling of the pond had caused significant changes to the existing landscape character; the proposed 3 m high fill material seemed excessive which would raise the ground level much higher than the adjacent land and would incur landscape impact to the vicinity; and the existing trees immediately surrounding the filled up area might be damaged by the proposed filling due to changes of soil level and water table;

- (d) six public comments were received during the statutory publication period. While a general public stated “no comment” on the application, the other five public comments from the WWF, the CA, the Kadoorie Farm & Botanic Garden Corporation (KFBGC), and two members of the general public objected to the application. Their objections were mainly on the grounds that the application site was located in a wetland of ecological and conservation significance and the application was intended for regularizing the illegal change of land use of the wetland; and the applicant was adopting a “destruction first, develop later” approach to facilitate the approval process. Should the application be approved, it would set an undesirable precedent for other similar applications in this area, causing irreversible impacts on the wetland of extremely high ecological value and scenic beauty. Two of the public comments (i.e. WWF and KFBGC) further suggested to rezone the application site to “Conservation Area” to reflect the true ecological value of the area. The District Officer (North) advised that while there was no reply from the Sha Tau Kok District Rural Committee and the concerned North District Council member, the Indigenous Inhabitants’ Representatives of Kai Kuk Ha and Ham Hang Mei supported the application on grounds that the proposed filling of ponds would avoid safety hazards to children and the growing of crops would be beneficial to the villagers; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessments made in paragraph 11 of the Paper. The applicant proposed to fill up the site of area about 2,593 m<sup>2</sup> by up to 3 m for agricultural use. The depth of land and pond filling up to 3 m was excessive as only the top-soil of 300 mm to 500 mm was suitable for crop

cultivation. No strong justifications had been provided by the applicant to demonstrate the need for such extensive land and pond filling. Although agricultural purpose at the site was in line with the planning intention of the “Agriculture” (“AGR”) zone, DAFC considered that the existing land condition which had been filled with a mixture of soil, stones and some construction material was not suitable for cultivation and was inconsistent with the intended use in the application. Besides, the application site fell within the Luk Keng Marsh Priority Site, an ecologically important site supporting a high diversity of dragonflies and other wetland fauna and flora. As the site formed part of the ecologically important wetland habitat of the Priority Site, the proposed land and pond filling would lead to loss of wetland in the area. The site was also bounded directly on the north-western side by an ecologically important stream, which supported a moderate diversity of dragonfly species and riparian vegetation. There was no information in the application to demonstrate that the potential impact on the stream and its riparian zone could be mitigated. Should the application be approved, it would set an undesirable precedent for unauthorized filling of land and pond in the area. In this regard, DAFC did not support the application. The CE/MN, DSD also objected to the application on the grounds that no preventive measures were proposed to protect the flow in EIS adjacent to the northwest periphery of the site from being affected by the proposed land filling; and no flood mitigation measures were proposed to alleviate the increase in flooding risk due to decrease in flood detention capacity caused by the proposed filling of the pond. Besides, there were public comments against the application.

56. Members had no question on the application.

#### Deliberation Session

57. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After further deliberation, the Committee decided to reject the application and the reasons were :



- (a) the depth of land and pond filling up to 3 m for agricultural use was considered excessive. No strong planning justifications had been provided to demonstrate the need for such excessive land and pond filling;
- (b) the application site fell within the Luk Keng Marsh Priority Site for Enhanced Conservation identified under the New Nature Conservation Policy and was adjacent to an ecologically important stream. No preventive measures were proposed to protect the flow of the adjacent ecological important stream and no flood mitigation measures were proposed to alleviate the increase in flooding risk. The proposed filling of land and pond would result in loss of wetland and had adverse ecological and drainage impacts on the surrounding area; and
- (c) approval of the application would set an undesirable precedent for similar application within the “Agriculture” zone. The cumulative effect of approving such similar applications would cause irreversible impacts on the ecologically sensitive wetland and stream in the area.

[Professor David Dudgeon returned to join the meeting at this point.]

### **Agenda Item 11**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/406      Temporary Public Vehicle Park (Private Cars) for a Period of 3 Years  
in “Village Type Development” zone,  
Taxlord Lot No. 1431 S.A RP (Part) in D.D. 83, San Uk Tsuen,  
Fanling  
(RNTPC Paper No. A/NE-LYT/406A)

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

58.            Mr. W.K. Hui, DPO/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary public vehicle park (private cars) for a period of 3 years;
- (c) departmental comments – the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the proposed vehicular access cum emergency vehicular access (EVA) leading to the application site; and considered that the proposed vehicular access was undesirable as it was very close to a bus lay-by and would affect the bus operation thereat;
- (d) five public comments objecting to the application was received during the statutory publication period :
  - a public comment from five indigenous villagers of San Uk Tsuen was received against the application on the grounds that the applicant might fell the existing mature trees at the application site should the application be approved; the application was submitted for the purpose of delaying any further enforcement actions; the applicant did not have the right to submit the planning application on behalf of the land owners who had not received any notification from the applicant regarding the application; the track leading to the site was only for pedestrian use and use of the track for vehicular access might pose hazards to the pedestrians and cause traffic congestion; there was no need to have another vehicle park in San Uk Tsuen since the previously approved temporary public vehicle park had a large number of parking spaces remained unlet; the vehicle park under application was too close to the nearby village houses and would cause severe noise and environmental impacts; and the frequent vehicular traffic would affect the earth shrine and *fung shui* of San Uk Tsuen; and
  - four public comments were received in respect of the further information on the application. One of them was a public comment from the same five indigenous villagers of San Uk Tsuen reiterated the previous

objection against the proposed development and also stated that the applicant was not the legal tenant of the application site and had no right to change the land use of the application site which was a piece of *Tso Tong* land. The other three public comments, with two comments from a North District Council (NDC) member and a comment from the villagers of San Uk Tsuen (with 75 names / signatures) supported the application on the ground that there was insufficient parking space for the village;

[Dr. C.N. Ng returned to join the meeting at this point.]

- (e) the District Officer (North) had no comment on the application and advised that one of the IIR of Lung Yeuk Tau cum concerned NDC member supported the application in view of the insufficient carparking spaces in the area. Another IIR and the Chairman of Fanling District Rural Committee had no comment on the application, while the Residents' Representative and another IIR of Lung Yeuk Tau raised an objection to the application on the grounds that the proposed public vehicle park might cause security and air pollution problems as it was too close to nearby village houses; and
- (f) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments made in paragraph 11 of the Paper. The proposed vehicular access to the application site which was directly accessible to/from Sha Tau Kok Road was yet to be constructed by the applicant. According to AC for T/NT, TD, the proposed vehicular access was very close to the existing bus-lay-by and the incoming and outgoing traffic to/from the application site would affect the bus operation thereat. In this regard, AC for T/NT, TD did not support the application at this stage and considered that a plan showing the details of the vehicular access to/from the application site, ingress/egress and parking arrangement together with the manoeuvring of vehicles within the application site (preferably with swept path analysis) was required to be submitted by the applicant. There were two similar applications for temporary public vehicle park at the same site, which were approved by the Board on review

and by the Committee on 2.4.2004 and 5.12.2008 respectively. However, the approved temporary public vehicular park was served by an existing vehicular track, while the current application would involve the construction of a new vehicular access on Government land. As the construction of such vehicular access would require demolition of the existing roadside planter together with a few existing trees thereat, the feasibility of implementing the proposed vehicular access was not substantiated. Moreover, the removal of the existing trees along the busy Sha Tau Kok Road which could serve as a landscape buffer to the existing/future Small House development within the “Village Type Development” (“V”) zone was considered undesirable. There was currently an alternative access to the application site via an existing local track as originally proposed by the applicant. Although AC for T/NT had previously advised that the proposed access was a substandard village road which was too narrow to accommodate two-way traffic and required the applicant to submit plan showing the details of vehicular access to/from the site, ingress/egress and parking arrangement together with manoeuvring of vehicles within the site for his further consideration, no such information was provided by the applicant. It was considered that the applicant should demonstrate that there was no alternative access route to the application site before contemplating on the currently proposed vehicular access. One public comment and local objection were received against the application on the grounds that the use under application would cause environmental impacts on the area and pose hazards to the residents of the nearby village houses.

59. Members had no question on the application.

#### Deliberation Session

60. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed vehicular access, which was very close to a bus lay-by and would affect the bus operation thereat, was unacceptable from traffic engineering point of view; and
- (b) there was insufficient information to demonstrate that the development under application would not have adverse traffic impact on the surrounding area.

### **Agenda Item 12**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/415      Proposed Petrol Filling Station with Ancillary Facilities including Office, Shop and Services Use and Toilet with Minor Relaxation of Building Height Restriction from 6m to 6.725m in “Residential (Group C)” zone, Lot 1030 S.B ss.1 RP in D.D. 83, Sha Tau Kok Road, Fanling (RNTPC Paper No. A/NE-LYT/415)

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

61.            Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed petrol filling station (PFS) with ancillary facilities including office, shop and services use and toilet with minor relaxation of building height restriction from 6m to 6.725m;
- (c) departmental comments – the District Lands Officer/North (DLO/N) had no objection to the application. DLO/N advised that approval in-principle was given by the District Lands Conference/North on 24.11.2009 for the proposed in-situ land exchange in connection with the subject petrol filling station proposal. The provisional basic terms were offered on 9.12.2009

and were accepted by the applicant on 16.12.2009. However, under the proposed conditions of exchange, the grantee would be required to provide at least four LPG dispensing nozzles for supply of LPG to motor vehicles at the application site. As such, the proposed development parameters with “Nil” LPG filling facilities was not in line with the requirement stipulated in the approved conditions of exchange. The requirement for provision of at least four LPG dispensing nozzles at Lot 1030 S.B ss.1 RP in D.D. 83 was confirmed by the Electrical and Mechanical Services Department (EMSD);

- (d) no public comment was received during the statutory publication period. The District Officer (North) had consulted the locals concerned. The concerned North District Council (NDC) member of the subject constituency cum Indigenous Inhabitants Representative (IIR) of Lung Yeuk Tau had raised an objection on the grounds that the subject lot was not suitable for petrol filling station and ancillary facilities; and the proposed development would adversely affect the local environment and traffic flow. The Chairman of Fanling District Rural Committee, and another IIR and Residents’ Representative of Lung Yeuk Tau had no comment; and

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

- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 10 of the Paper. The application site was the subject of four previously approved planning applications for a proposed petrol filling station submitted by the same applicant. The current application was generally the same as the previous application No. A/NE-LYT/328 except with a minor increase in the site area from 1,073m<sup>2</sup> to 1,120m<sup>2</sup> to tally with the area of the approved conditions of land exchange. There was no change in other proposed development parameters, including gross floor area and building height. There had been no material change in the planning circumstances since the previous approval was granted and the approval of the subject application

was in line with the Committee's previous decision. The proposed in-situ land exchange in connection with the proposed PFS had been processed to an advanced stage and the applicant was awaiting the formal execution of the lease documents. However, as the planning permission of the previous application No. A/NE-LYT/328-1 for a proposed PFS would lapse on 19.5.2010, the applicant submitted a fresh application to continue the validity of the planning permission in case the conditions of exchange related to the proposed PFS could not be executed before the expiry date of the planning permission. The application site was located at the fringe of the "Residential (Group C)" ("R(C)") zone and was separated from the major portion of the "R(C)" zone by an access road. Moreover, the proposed PFS was not incompatible with the surrounding areas and the site was surrounded by existing trees along the eastern, southern and western boundaries. The applicant had submitted drainage and landscape plans in the current submission while a revised traffic impact assessment for compliance with approval condition of the previous application (No. A/NE-LYT/328) had been approved by the Assistant Commissioner for Transport/New Territories. It was anticipated that the proposed development would not cause adverse environmental, traffic, drainage and landscape impacts on the surrounding areas. As regards the local objection, the proposed development was not incompatible with the surrounding uses and concerned Government departments had no adverse comments or no objection to the application. The local concern could be addressed through the imposition of relevant approval conditions in the planning approval. As regards DLO/N's concern about the provision of LPG filling facilities vis-à-vis the lease requirements, it should be noted that planning permission was only granted for the use/development under application. If provision of the LPG facilities was required for the proposed PFS at the site, the applicant was required to submit a fresh s.16 planning application to the Board for approval. An advisory clause in this regard would be included in the planning approval should the application be approved by the Board.

62. Members had no question on the application.

Deliberation Session

63. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 19.3.2012, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) all spoils arising from site formation works should be contained and protected to prevent all nearby watercourses from being polluted or silting up during the planning approval period;
- (b) no discharge of effluent within the flood pumping gathering grounds should be allowed without prior approval from the Director of Water Supplies during the planning approval period;
- (c) all wastes, sludge and pollutants arising from the proposed petrol filling station should be properly disposed of outside flood pumping gathering grounds during the planning approval period;
- (d) the proposed petrol filling station should be surrounded by kerbs and drains on all sides to avoid polluting the nearby watercourses during heavy rainfall during the planning approval period;
- (e) drainage traps such as grease traps and petrol interceptors should be installed at each of the drainage outlets and should be under proper maintenance. All such drainage traps should have sufficient capacity to ensure the proper collection and disposal of fuel, lubricants and chemicals during the planning approval period;
- (f) the design and provision of appropriate environmental mitigation measures to the satisfaction of the Director of Environmental Protection or of the TPB;



- (g) the submission and implementation of drainage proposals to the satisfaction of the Director of Drainage Services or of the TPB;
- (h) the submission and implementation of tree preservation and landscape proposals to the satisfaction of the Director of Planning or of the TPB; and
- (i) the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the District Lands Officer/North, Lands Department that under the proposed conditions of exchange, the grantee would be required to provide at least four liquefied petroleum gas (LPG) dispensing nozzles for supply of LPG at the application site. As such, the proposed development parameters with “Nil” LPG filling facilities were not in line with the requirement stipulated in the approved conditions of exchange;
- (b) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department (HyD) that a proper run-in/out on the public road should be formed according to the latest Transport Planning and Design Manual and HyD’s standard;
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department as follows:
  - (i) prior approval and consent from the Building Authority should be obtained. Authorized Person must be appointed to coordinate all new building works in accordance with the Buildings Ordinance;
  - (ii) all right-of-ways/streets in the “Brown Areas” of the lease had to be completed prior to Occupation Permit occupation; and

- (iii) detailed comments would be given at plans submission stage;
- (d) to note the comments of the Director of Fire Services as follows:
  - (i) Emergency Vehicular Access should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue administered by the Buildings Department; and
  - (ii) detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans/dangerous goods licence application;
- (e) to note the comments of the Chief Engineer/Development(2), Water Supplies Department as follows:
  - (i) any effluent discharge must comply with the Technical Memorandum on Standards for Effluent Discharge into Drainage and Sewerage Systems, Inland and Coastal Waters; and
  - (ii) the application site was within flood pumping gathering ground and was less than 30m away from the nearest watercourse;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that prior approval should be obtained from relevant departments before commencement of any tree removal works and those unaffected trees outside the northern site boundary should be protected during the construction period; and
- (g) to note that the permission was only given to the use/development under application. Should LPG filling facilities be provided at the application site, a fresh s.16 planning application should be submitted to the TPB for approval.

**Agenda Item 13**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/416      Proposed House (New Territories Exempted House - Small House)  
in “Agriculture” zone,  
Lot 873 S.D in D.D. 83, Ma Liu Shui San Tsuen, Queen's Hill, Fanling  
(RNTPC Paper No. A/NE-LYT/416)

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**Presentation and Question Sessions**

65.      Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House - Small House);
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from the agricultural development point of view as agricultural activity was still active in the application site. The Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application as the Small House development should be confined within the “Village Type Development” (“V”) zone as far as possible where the necessary traffic and transport facilities had been planned and provided. Although significant traffic associated with the proposed development was not expected, such development if permitted, would set an undesirable precedent for similar applications in the future, and the resulting cumulative adverse impact could be substantial;
- (d) two public comments were received during the statutory publication period. The first public comment indicating “no comment” was submitted by a member of the public. The other public comment was submitted by

Designing Hong Kong Limited, which objected to the application mainly on the grounds that the application site was zoned “Agriculture”; and there was a lack of plan for a sustainable village layout to ensure the health and well being of current and future residents and a quality urban design. The District Officer (North) advised that the concerned locals had been consulted. While the Indigenous Inhabitants Representative (IIR) and Residents’ Representative (RR) of Ma Liu Shui San Tsuen supported the application, the Chairman of Fanling District Rural Committee had no comment on the application; and

- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. According to the latest estimate by the PlanD, the land available could not fully meet the future Small House demand for Ma Liu Shui Tsuen. The proposed Small House development generally complied with the “Interim Criteria for Consideration of Application for New Territories Exempted House(NTEH)/Small House in New Territories” in that not less than 50% of the footprint of the proposed Small House (i.e. about 96.9% of the footprint of the proposed Small House) fell within the village ‘environs’ of Ma Liu Shui San Tsuen and there was a general shortage of land in meeting the demand for Small House development in the “V” zone of the village. Hence, sympathetic consideration could be given to the application. Although the proposed development was not compatible with the planning intention of the “Agriculture” (“AGR”) zone and the DAFC did not support the application from the agricultural point of view, the proposed Small House was considered not incompatible with other village houses in the vicinity. Moreover, the proposed Small House would not have significant adverse impacts on the environment, drainage and landscape of the surrounding area. Although AC for T/NT had reservation on the application and considered that the Small House development should be confined within the “V” zone as far as possible, the application site was located to the east of the village proper of Ma Liu Shui San Tsuen and the traffic associated with the proposed development was not expected to be significant. As regards the public comment objecting to the application,

concerned Government departments had no adverse comment on or no objection to the application. In addition, IIR and RR of Ma Liu Shui San Tsuen supported the application.

66. Members had no question on the application.

#### Deliberation Session

67. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 19.3.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of drainage proposals to the satisfaction of the Director of Drainage Services or of the TPB;
- (b) the provision of fire fighting access, water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (c) the submission and implementation of tree preservation and landscape proposals to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the Chief Engineer/Development(2), Water Supplies Department as follows :
  - (i) for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the

construction, operation and maintenance of the inside services within the private lots to his Department's standards;

- (ii) the application site was located within the flood pumping gathering ground; and
  - (iii) water mains in the vicinity of the application site could not provide the standard fire fighting flow; and
- (b) to note that the permission was only given to the development under application. If provision of an access road was required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complied with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.

#### **Agenda Item 14**

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

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/417      Proposed House (New Territories Exempted House - Small House)  
in "Agriculture" zone,  
Lot 1587 S.B ss.7 in D.D. 76, Kan Tau Tsuen, Fanling  
(RNTPC Paper No. A/NE-LYT/417)

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

69.            The Committee noted that replacement for pages 2 and 6 of the Paper to rectify the typing errors in paragraph 2(b) and paragraph 11.4 were tabled at the meeting for Members' reference.

70.            Ms. Doris S.Y. Ting, STP/STN, then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House - Small House);
- (c) departmental comments – the District Lands Officer/North (DLO/N) did not support the application in view of the fact that more than 50% of the proposed house site on the subject lot fell outside the village ‘environs’ (‘VE’); the applicant’s claim to be an indigenous villager of Kan Tau Tsuen Village, Fanling and his eligibility for Small House concessionary grant had yet to be verified; the subject lot was not covered by any licence; the Small House application was submitted to his Office on 19.7.2004; and the figure of 10-year Small House demand as provided by the relevant Village Representative in response to his enquiry had not gone through the verification procedure. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as farming activity in the vicinity was very active, the site was graded “good” agricultural land with “high” potential for agricultural rehabilitation. The Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application as Small House development should be confined within the “Village Type Development” (“V”) zone as far as possible where the necessary traffic and transport facilities had been planned and provided. Although significant traffic associated with the proposed development was not expected, such development, if permitted would set an undesirable precedent case for similar applications in the future and the resulting cumulative adverse traffic impact could be substantial;
- (d) one public comment from Designing Hong Kong Limited was received during the statutory publication period objecting to the application on grounds that the application site was zoned “Agriculture” (“AGR”); and the lack of plan for a sustainable village layout, which ensured the health and well being of current and future residents and a quality urban design, might further deteriorate the living environment in villages, impact the well being of residents, and create health and social problems and future costs to

society. District Officer (North) had no comment on the application and advised that the Chairman of the Fanling District Rural Committee and an Indigenous Inhabitants Representatives (IIR) of Kan Tau Tsuen raised objection to the application on the grounds that the proposed development was not within the “V” zone while Resident Representatives (RR) of Kan Tau Tsuen was currently out of town; and

- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessments made in paragraph 11 of the Paper. According to the latest estimate by PlanD, land was available to meet the demand of Small house developments in the “V” zone of the Kan Tau Tsuen. The application did not comply with the “Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories” (“Interim Criteria”) in that 99.6% of the footprint of the proposed Small House fell outside the ‘VE’ of Kan Tau Tsuen and there was sufficient land in meeting the demand for Small House development in the “V” zone of Kan Tau Tsuen. Therefore, DLO/N did not support the application. The application was not in line with the planning intention of the “AGR” zone and the DAFC did not support the application from the agricultural point of view. The AC for T/NT also had reservation on the application as he considered that small house development should be confined to “V” zone where traffic and transport facilities had been planned and provided and in view of the undesirable precedent effect and the resulting cumulative adverse traffic impact. Although there were 28 similar applications including the one adjacent to the application site (under Application No. A/NE-LYT/238) previously approved by the Committee, these applications were approved mainly on the consideration that they had complied with the “Interim Criteria”. Approval of the application which did not comply with “Interim Criteria” would set an undesirable precedent for similar applications and the cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

71. Members had no question on the application.



### Deliberation Session

72. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the application did not comply with the “Interim Criteria for Consideration of Application for New Territories Exempted House(NTEH)/Small House in New Territories” as 99.6% of the footprint of the proposed Small House fell outside the village ‘environs’ of the Kan Tau Tsuen and there was no shortage of land in meeting the demand for Small House development in the “Village Type Development” zone of the village;
- (b) Small House should be developed within the “Village Type Development” zone so as to ensure an orderly development pattern, efficient use of land and provision of infrastructure and services; and
- (c) approval of the application which did not comply with the “Interim Criteria for Consideration of Application for New Territories Exempted House(NTEH)/Small House in New Territories” might set an undesirable precedent for other similar applications in the “Agriculture” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

[The Chairperson thanked Mr. W.K. Hui, DPO/STN, and Mr. Doris S.Y. Ting, STP/STN, for their attendance to answer Members’ enquires. Mr. Hui and Ms. Ting left the meeting at this point.]

[Mr. Simon K.M. Yu returned to join the meeting at this point.]

**Tuen Mun and Yuen Long District**

[Mr. C.C. Lau, Ms. S.H. Lam, Mr. W.M. Lam, Mr. Anthony C.Y. Lee and Mr. Kepler S.Y. Yuen, Senior Town Planners/Tuen Mun and Yuen Long (STPs/TMYL), were invited to the meeting at this point.]

**Agenda Item 15**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TM/391                      Proposed Public Utility Installation (Sewage Pumping Station)  
in “Residential (Group B) 13” zone,  
Government Land in D.D. 381, Tuen Mun (about 100m east from  
junction of Lok Yi Street and Lok Chui Street, Tuen Mun)  
(RNTPC Paper No. A/TM/391)

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**Presentation and Question Sessions**

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

- (a) background to the application;
- (b) the proposed public utility installation (Sewage Pumping Station);
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) a total of 76 public comments were received during the statutory publication period. They objected to the application mainly on the grounds that the proposed sewage pumping station was not compatible with the adjacent residential area which was less than 35m away and it would cause noise and odour nuisance to the nearby residents; the site was designated as “District Open Space” (“DO”) on the Tuen Mun Area 59

Layout Plan (LP) and the residents had been lobbying for a public open space at the site for the past few years; Lok Chui Street was narrow and the heavy vehicles generated from the proposed sewage pumping station would create danger for pedestrians and vehicles, especially for students; and the bulk of the above ground superstructure should be minimized by omitting the 1.1m high roof parapet, otherwise the top elevation of the pumping station as shown on the drawing should be 10.5mPD instead of 9.4mPD;

(e) the District Officer (Tuen Mun) had no comment on the application and DO(TM) had not received any comment from the locals; and

(f) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments made in paragraph 11 of the Paper. PlanD's assessments of the application were summarized below :

- at present, domestic sewage from unsewered areas in Tuen Mun was discharged into the nearby Tuen Mun Nullah and the beaches after treatment by private treatment facilities. Most of these private treatments were septic and soakaway systems at village developments, which were often ineffective in removing pollutants due to their inadequate maintenance. Sewage discharged from these unsewered areas was a source of pollution to the existing Tuen Mun Nullah and the beaches in Tuen Mun. In 2003, Environmental Protection Department (EPD) completed a study which recommended to provide village sewerage and associated sewage pumping stations to convey the sewage from the villages and other existing developments in Tuen Mun East area to the Pillar Point Sewage Treatment Works (PPSTW) for proper treatment and disposal. The proposed sewage pumping station (SPS) was designed to convey sewage from the villages in Tuen Mun East area and existing developments to the PPSTW. In response to public requests, the applicant had assessed two alternative sites. However, they were found to be unsuitable for the proposed SPS;

- an Environmental Study (ES) was carried out to assess the environmental

impacts of the proposed development. In accordance with the findings of the ES, the applicant proposed mitigation measures with regard to the potential noise and odour problems including housing the reinforced concrete structure with acoustic louvers to minimize the noise generated by equipment and providing silencers for the exhaust fans. To mitigate odour problems, the applicant proposed to provide inlet chamber and wet well underground and enclosed them by air tight covers. A deodorizer with a ventilation system would also be installed to avoid odour being discharged into open air. With these measures, the proposed SPS was not expected to generate significant adverse environmental impacts. In this regard, DEP had no objection to the application;

- the building occupied about 1,190m<sup>2</sup> and was a single-storey structure of 4.2m in height situated at a lower level than the abutting Lok Chui Street. Thus, the proposed SPS would not generate significant visual impact within the low to medium-density residential area where the site was located. Besides, green roof, landscaping and architectural design would be provided to screen the SPS from existing residential developments in the vicinity. Chief Architect/Advisory and Statutory Compliance (CA/ASC, ArchSD) commented that with mitigation measures implemented, the proposed SPS did not seem to impose significant visual impact on the surrounding area. Moreover, the existing and planned infrastructure would not be overstrained by the proposed development and no significant adverse landscape and drainage impacts were anticipated. Relevant Government departments had no objection to the application;
- part of the site (about 730m<sup>2</sup>) was planned for a “DO” on the LP for Tuen Mun New Town Area 59 No. L/TM59/1E. There was a total of 0.88ha of “LO” and 4.8ha of “DO” planned or provided at Tuen Mun Area 59. The Director of Leisure and Cultural Services commented that the subject site could be released for other use as the Tuen Mun district had been provided with sufficient public open space with reference to the Hong Kong Planning Standards and Guidelines at present and in the foreseeable future; and

- with regard to the public comments on the adverse impact of the proposed SPS on health and hygiene, it was noted that adequate mitigation measures would be provided by the applicant to minimize the nuisances to an acceptable standard and no suitable alternative site could be identified in the vicinity. Moreover, no objections from concerned Government departments had been received. It was also recommended that should the application be approved by the Board, the applicant would be advised to liaise with the nearby residents and to provide them with relevant information of the proposed development to address their concerns.

74. In response to the Chairperson's enquiry, Mr. C.C. Lau said that as shown in the submitted landscape plan in Drawing A-5 of the Paper, the applicant would provide roof-top greening for the proposed SPS.

#### Deliberation Session

75. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 19.3.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission of the proposed design measures to mitigate the visual impact on the surrounding area to the satisfaction of the Director of Planning or of the TPB; and
- (c) the submission and implementation of the proposal on emergency vehicular access (EVA), water supply for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the District Lands Officer/Tuen Mun that the 'Site Works Boundary' of the application was larger than the application site area. The applicant should clarify whether or not the whole area also fell within the planning application; and no tree was unnecessarily felled or interfered with. The applicant should also apply for a Government land allocation for the proposed development;
- (b) to liaise with residents and to provide them with relevant information of the proposed development with a view to addressing their concerns;
- (c) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and the emergency vehicular access provision should comply with the standards as stipulated in Part VI of the Code of Practice for Means of Access for Firefighting and Rescue under the Building (Planning) Regulation 41D;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the applicant should be responsible for his own access arrangement; and if any run-in/out was approved by the Transport Department, the applicant should construct it according to HyD's standard drawing H1113 and H1114, or H5115 and H5116, to match the existing pavement condition. In addition, an interception channel should be provided at the entrance to prevent surface water flowing out from the lot onto the public road/footpath via the run-in/out; and the application site included part of the slope of feature no. 6SW-D/F91 which was being maintained by the HyD. The applicant should be responsible for future management and maintenance of this part of the slope. It was noted that a small piece of the slope was to be formed at the east of the application site. It was suggested to include also this small piece of slope into the application site for ease of management and maintenance. In addition, the grantee should make Geotechnical Engineering Office (GEO) submission and obtain GEO checking certificate

for any permanent modification works on HyD's slope, and write to Slope Information System (SIS) of GEO of any revision to feature boundary. Modification works on the slope of HyD should be carried out to the satisfaction of this Regional Office of HyD;

- (e) to note the comments of the Director of Leisure and Cultural Services that the applicant would be responsible for the cost of construction and maintenance of the landscape as set out in Enclosure 6 of the Planning Statement for the Proposed Sewage Pumping Station, and observe the requirements of ETWBTC (Works) No. 3/2006 if any tree within the project boundary was affected by the project;
- (f) to note the comments of the Director of Electrical and Mechanical Services that the applicant should follow the 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation and consult CLP Power Hong Kong Limited prior to establishing any structures; and
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the site was in an area where no public stormwater drainage connection was available.

[The Chairperson thanked Mr. C.C. Lau STP/TMYL, for his attendance to answer Members' enquires. Mr. Lau left the meeting at this point.]

**Agenda Item 16**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-LTY Y/190 Proposed Comprehensive Residential Development  
(Amendment to Approved Master Layout Plan for Changing the  
Public Open Space to a Communal Open Space for Residents of  
the Proposed Residential Development)  
in “Comprehensive Development Area” and “Green Belt” zones,  
Lots 837 RP, 839 S.A, 841, 1035 RP, 1037 RP, 2527 S.E and  
2527 RP (Part) in D.D. 130 and Adjoining Government Land,  
Lam Tei, Tuen Mun (to be known as Lot 2861 in D.D. 130)  
(RNTPC Paper No. A/TM-LTY Y/190)

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77. The Secretary reported that the application was submitted by two subsidiaries of Henderson Land Development Co. Ltd. (HEND). Mr. Alfred Donald Yap had declared an interest in the item as he had current business dealings with HEND. Mr. Yap left the meeting temporarily for this item.

**Presentation and Question Sessions**

78. Ms. S.H. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed amendment to the previously approved master layout plan (MLP) for a proposed comprehensive residential development by changing a proposed public open space (POS) to communal open space for the exclusive use of the residents in the development at the application site (the site);
- (c) departmental comments – the comments from the concerned Government departments were :



Land Administration

- the District Lands Officer/Tuen Mun (DLO/TM) advised that should the application be turned down by the TPB, the proposed POS would be privately owned and managed and publicly accessible. The developer should take up the future management and maintenance responsibility. However, there was no guarantee that the arrangements for the developer to take up the recurrent costs and responsibility to manage and maintain the POS could eventually be made at the land exchange stage;

Urban Design and Landscaping

- the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD & L, PlanD) had reservation on the application as the applicant had not included the design of the communal open space in his submission. As such, the design and visual impacts of the communal open space had not been shown;
- (d) 12 public comments were received during the statutory publication period, with two supporting, eight objecting to and two offering comments on the application. The public comments were summarized as follows :

Supporting Views

- two supporting comments were received from two individuals stating that it was unfair for future owners of the proposed residential development to bear the cost to maintain public facilities in private developments, and that security problems might arise from allowing public access to public open space within private residential developments;

Opposing Views

- two public comments objecting to the application were from the Village Representatives (VRs) of Tuen Mun San Tsuen and Fuk Hang Tsuen (Ha)

Tsuen mainly on the grounds that it would be unfair for the public not to be able to utilise the public resource and the public's right to use the open space had to be ensured. The VR of Tuen Mun San Tsuen commented that he had not been consulted on the proposed development and requested the Tuen Mun Rural Committee to arrange for a meeting with the relevant departments and parties;

- four comments objecting to the application were received from the Chairman of the Incorporated Owners and three residents of Botania Villa mainly on the grounds that the proposed development would cause additional traffic to Lam Tei Main Street and Fuk Hang Tsuen Road which were congested already; there was a lack of open space and community facilities available for children and youth in the area; it would block the existing pedestrian access; the Government had shifted the responsibilities of managing and maintaining public open spaces in private residential developments to individual flat owners; if this application was approved, it would be unfair to those individual flat owners of private residential developments with public open spaces, as it would constitute double standards and would further complicate the issue; and it was also unfair for owners of other private developments that had to pay for the maintenance of public facilities;
- two comments were from nearby villagers and an individual objecting the application on the grounds that it would adversely affect the "fung shui" of nearby villages; there was currently no policy on public open space in private developments; and the TPB should not make a decision on a case-by-case basis; and

Comments

- one comment was from a Tuen Mun District Council member suggesting that the proposed development had to provide vehicular and pedestrian access with sufficient width for indigenous villagers; and the developer should respect the requests of the descendants of Sun Fung Wai and

Leung's Family Graves, as well as the "fung shui" of surrounding villages. Another comment suggested that the proposed development blocked the EVA and vehicular access to nearby houses, and requested for a new EVA, vehicular and pedestrian access to those houses;

- (e) the District Officer (Tuen Mun) (DO/TM) advised that he had consulted a total of 19 local representatives, including eight VRs of nearby villages, eight chairmen of organisation committee of nearby residential developments as well as the chairman of the North East Area Committee and representatives of nearby school and monastery. Six local representatives forwarded their comments to DO/TM and five of them objected to the application and one had some comments. The local objection/concern was raised mainly on the grounds of traffic impact, reduction of open space for villagers and the difficulty for villagers to utilise those open space and facilities. DO/TM stressed that any subsequent amendment to the approved POS was a hot issue which not only affected the interests of the local, but also carried implications for the impartiality from a wider community angle;
  
- (f) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments made in paragraph 11 of the Paper. PlanD's assessments of the application were summarized below :
  - the Board firstly approved the comprehensive residential development on review on 29.11.1996 (Application No. A/DPA/TM-LTYYY/111) at the site which was zoned "Unspecified Use" on the then Lam Tei and Yick Yuen Development Permission Area Plan when the application was submitted. The scheme included, among others, a POS of about 1,600m<sup>2</sup> which was proposed by the applicant as a planning gain. On the first Outline Zoning Plan (OZP) for the area gazetted on 7.6.1996, the subject site was initially zoned "Green Belt" ("GB") and "Village Type Development" ("V"), but was later rezoned to "CDA" on 23.7.1999 upon the Board's decision to uphold an objection to the zoning of the site submitted by the applicant to reflect the approved scheme;

- subsequently, the applicant had submitted five planning applications (Applications No. A/TM-LTYYY/101, 109, 119, 158 and 158-2) to amend the development scheme regarding the development parameters, deposition and layout of the residential development and open space, etc. All these subsequent applications had been approved. The POS had been a common component in all the approved applications. Under Application no. A/TM-LTYYY/101 submitted in 2002, a POS of about 2,000m<sup>2</sup> was proposed by the applicant as a planning gain. Under Application No. A/TM-LTYYY/109 submitted in 2003, an additional strip of POS of 320m<sup>2</sup> adjacent to the existing village office (VO) (in addition to the POS of 2,000m<sup>2</sup> proposed under previous approved scheme) was proposed to serve as a gathering place for the villagers and a landscape buffer screening for the VO from the residential block to address the concerns/opposition of the villagers. Similarly, the same two POSs were included in the Application No. A/TM-LTYYY/119. Subsequently, under Application No. A/TM-LTYYY/158 submitted in 2007, the applicant proposed to relocate the VO together with the 320m<sup>2</sup> POS to the eastern part of the "CDA" which would result in a combined POS of 2,320m<sup>2</sup> with the relocated VO at its south-eastern corner for a better VO layout and ample open space which would provide a suitable gathering ground for social activities for the villagers. The proposed POS remained the same in Application No. A/TM-LTYYY/158-2, whereas the location of the VO had been slightly shifted to southeast. The applicant had previously indicated no objection to take up the management and maintenance responsibilities of the POS. All the previous approvals for the site include a condition requiring provision of POS as proposed by the applicant;
  
- the current application proposed change of the proposed POS to communal open space for the exclusive use of the residents in the subject proposed residential development. This change would however defeat the original intention of the open space, which was proposed by the applicant for the enjoyment of the public and the locals, in particular to

serve as a social gathering place for the villagers. Thus, it was considered not justifiable to change the POS to communal open space. Approval of the application would forfeit the planning gain provided under the previous approved schemes;

- the applicant in his justifications claimed that the proposed change of POS to communal open space was to align with the new Government policy expressed by the Development Bureau (DEVB) in the Legislative Council Paper of May 2009 on the “Provision of Public Facilities in Private Developments: The Way Forward” in that “... *bureaux or departments would not in the future recommend the Board to accept or require the provision of public open space in private developments, especially in residential developments or on Government land adjacent to such developments, in order to prevent the recurrence of the implementation and management problems...*”. However, following the public engagement in 2008 and 2009 on the subject matter and taking into account the views from various stakeholders, the DEVB had put forward refined arrangements to guide the provision of POS in private developments which were set out in a recent Legislative Council Panel on Development Paper dated 26.1.2010. As stated in the paper, it was considered that “*the existing policy of incorporation of POS into private developments for public use is based on sound considerations, and should be upheld (para.7).*” It went on to say that “*in respect of commercial or comprehensive developments where there are obvious planning gain and little or no objections for the private developer to construct an on-site POS on private land, ... we will retain the flexibility to seek or accept such provision of POS for public enjoyment (para.11).*” On the current case, since the applicant had all along agreed to provide the POS at the site under previous applications, and there were obvious planning gains associated with its provision, the retention of the POS in the development was therefore in line with the Government’s policy in this respect;
- although DLCS indicated he had no intention to take up the management and maintenance responsibilities of the POS, as the applicant previously

indicated that he had no objection to take up the maintenance and management responsibilities, it might not be necessary to hand over the POS to LCSD or other government departments. However, the Administration would need to explore the feasibility of arrangements to ensure that the management and maintenance responsibilities of the POS would not be shifted to subsequent individual flat owners of the future residential development;

- as there were still a number of cases approved by the Board for private developments comprising POS or other forms of planning gain, approval of the current application would therefore had precedent effect. The cumulative effect of converting POS to communal/private open space would have implications for the overall provision of public open space. It could also put an end to the well established practice of substantiating development proposals by planning gains; and
- the public comments on the current application received during the statutory publication period were diverse. It was noted that the public expect the POS already approved in the previous schemes to be opened for public enjoyment, and it was considered unfair to owners of other private residential development with POS if the current application was approved. On the other hand, the concerns that the developers would shift the responsibilities of maintenance and management of the POS to the future individual owners were noted. An objector also opined that in the absence of a policy on POS in private developments, the Board should not make decision on a case-by-case basis. Apart from the above, issues on increased traffic, provision of pedestrian and vehicular access, impact on fung shui, etc. were also raised in the public comments.

79. Members had no question on the application.

#### Deliberation Session

80. Members considered that the conversion of the POS to communal open space

would constitute forfeiture of the planning gain and the applicant's commitment which was one of the justifications supporting the Board's previous approvals for the comprehensive development at the Site. Members considered that the applicant should explore more feasible options to address the implementation issue pertaining to the POS.

81. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed public open space was intended for the enjoyment of the public and the locals, in particular, being located next to a reprovisioned Village Office, to serve as a social gathering place for the villagers, which was proposed by the applicant in previous applications as a planning gain. The conversion of the public open space to communal open space would constitute forfeiture of the planning gain which was one of the justifications supporting the Town Planning Board's previous approvals for the comprehensive development at the site as well as the consequential rezoning of the site from "Green Belt" to "Comprehensive Development Area"; and
- (b) the approval of the application would set an undesirable precedent for other similar applications for conversion of public open space. The cumulative effect of approving such applications would have implications for the overall provision of the public open space.

[Mr. Alfred Donald Yap returned to join the meeting at this point.]

**Agenda Item 17**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-ST/386            Temporary Open Storage and Retail Sale of Construction Machinery  
for a Period of 3 Years in “Residential (Group D)” zone,  
Lots 16 S.B RP (Part) and 19 (Part) in D.D. 105 and  
Adjoining Government Land, San Tin, Yuen Long  
(RNTPC Paper No. A/YL-ST/386)

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**Presentation and Question Sessions**

82.            Ms. S.H. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a)    background to the application;

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

- (b)    the temporary open storage and retail sale of construction machinery for a period of 3 Years;
- (c)    departmental comments – the District Lands Officer/Yuen Long (DLO/YL) did not support the application as the occupant of the Government land concerned failed to accept the offer of Short Term Tenancy to regularize the irregularities on-site; and there was apparently no prospect of regularization;
- (d)    no public comment was received during the statutory publication period and no local comment was received by the District Officer (Yuen Long); and
- (e)    the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. The application was considered in line with the Town Planning Board



Guidelines No. 13E in that there were previous approvals; there was no local objection; and there were no major adverse departmental comments on/objection to the application or their comments could be addressed through the implementation of approval conditions. The applied use was considered not incompatible with the surrounding land uses. Besides, it was considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “Residential (Group D)” (“R(D)”) zone as there was no immediate development proposal for this part of the zone. There was no environmental complaint against the site received in the past three years. To minimize any potential environmental nuisance to nearby residents, approval conditions restricting the operation hours and the activities on-site as well as requiring provision of paving and boundary fencing had been recommended. Any non-compliance with these approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action. With regard to DLO/YL’s concern on the applicant’s failure to accept his offers of STT for regularization of unlawful occupation of GL, the applicant would be advised to liaise with DLO/YL to resolve the issue. The site was also the subject of 5 approved applications for the same use and there was no major change in the planning circumstances in the area. For the last planning permission granted under Application No. A/YL-ST/327, conditions had been complied with during the planning approval period. Recent similar applications in the locality within the same “R(D)” zone were also approved by the Committee in 2009. Approval of the subject application was in line with the Committee’s or the Board’s previous decisions. There was no local objection to the application.

83. Members had no question on the application.

#### Deliberation Session

84. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as

submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the setting back of the northern boundary of the site to avoid encroachment upon the resumption limit of the project 'Cycle Tracks Connecting NWNT with NENT – Section from Tuen Mun to Sheung Shui' as and when required by the Government to the satisfaction of the Director of Lands or of the TPB;
- (b) no night-time operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (d) no car washing, dismantling, repairing or other workshop activities involving metal cutting, drilling, hammering, paint spraying, and oil/lubricant changing were allowed on the site at any time during the planning approval period;
- (e) no vehicular access point other than the vehicular access point at the west of the site, as proposed by the applicant, was allowed on the site during the planning approval period;
- (f) the landscape planting on the application site should be maintained at all times during the approval period;
- (g) the drainage facilities on the site should be maintained at all times during the planning approval period;
- (h) the submission of an as-built drainage plan and photographic records of the existing drainage facilities within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.9.2010;

- (i) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (j) in relation to (i) above, the provision of fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.12.2010;
- (k) provision of paving and boundary fencing within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.9.2010;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (m) if any of the above planning conditions (h), (i), (j) or (k) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (n) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) prior planning permission should have been obtained before continuing the applied use at the application site;
- (b) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (c) to liaise with the District Lands Officer/Yuen Long (DLO/YL) in relation

to a Short Term Tenancy to regularize the unlawful occupation of Government land;

- (d) to note the comment of DLO/YL that the lots within the site were Old Schedule Agricultural Lots held under Block Government Lease under which no structures were allowed to be erected without prior approval from his Office; there were two pieces of unleased Government land (GL) occupied without approval from his Office and unauthorized structure(s) (including converted containers) were found erected within the site. His Office reserved the right to take appropriate control action against these irregularities, if indeed found in due course; a valid application of Short Term Waiver (STW) No. 3145 had been issued by his Office for the purpose of 'storage and retail sale of construction machinery and ancillary use'. Should there be any deviation from the permitted STW conditions, his Office would reserve the right to take appropriate action against the irregularities, if indeed found in due course. The entrance at the north-eastern side of the site abutted on and opened to the resumption limit of 'Cycle Tracks Connecting NWNT with NENT – Section from Tuen Mun to Sheung Shui'. His Office did not provide maintenance works to the GL involved. His Office would not guarantee such right-of-way to the site;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department to minimize potential environmental impacts on the surrounding areas;
- (f) to note the comments of the Drainage Services Department in Appendix V of the Paper;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the applicant should avoid storing materials or debris within 1 m of the existing tree trunks in order to avoid damage to the trees;

- (h) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department that the proposed entrance was located at an access road stemming from Castle Peak Road – San Tin, which was not currently maintained by his Office. The applicant should ensure that there were sufficient manoeuvring spaces along the access route. No other vehicular access point on Castle Peak Road – San Tin should be allowed;
- (i) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that HyD was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and Castle Peak Road – San Tin;
- (j) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that any temporary buildings were subject to control under Building (Planning) Regulations (B(P)R) Pt. VII; provision of emergency vehicular access was applicable under B(P)R 41D, and access to site under B(P)R 5 was also applicable; formal submission under Buildings Ordinance was required for any proposed new works, including any temporary structures; and if the site did not abut on a specified street having a width not less than 4.5m wide, the development intensity should be determined by the Building Authority under B(P)R 19(3) at the building plan submission stage; and
- (k) to note the Director of Fire Services (D of FS)' comments that fire service installations (FSI) were anticipated to be required in consideration of the design/nature of the proposed structures. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSI to his Department for approval. In formulating the FSI proposal for the proposed structures, the applicant should observe the requirements in Appendix VI of the Paper. The applicant should also note other advices of D of FS in Appendix VI of the Paper.

[The Chairperson thanked Ms. S.H. Lam, STP/TMYL, for her attendance to answer Members'

enquires. Ms. Lam left the meeting at this point.]

### **Agenda Item 18**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/311            Temporary Open Storage of New Vehicles  
(Cars, Taxis, Light Goods Vehicles, and Light Buses only)  
for a Period of 3 Years, in “Recreation” zone,  
Lots 89(Part), 90, 91RP, 92RP, 93 to 105, 106(Part), 107 to 109,  
110(Part), 111, 112(Part), 113, 202RP(Part), 203(Part), 204(Part),  
205(Part), 206(Part), 207 to 210, 214, 217 to 220, 221(Part), 224(Part),  
226(Part), 227(Part), 228 to 230, 231(Part), 233(Part), 234(Part),  
235(Part), 236 to 240, 241(Part), 295(Part), 296, 297, 298S.A to S.D,  
298RP, 299, 300, 301(Part), 302(Part), 303 to 306, 312(Part),  
313 to 314, 316(Part), 317(Part) and 318 in D.D. 126 and  
adjoining Government Land, Ping Shan, Yuen Long  
(RNTPC Paper No. A/YL-PS/311A)

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

86.            Mr. W.M. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary open storage of new vehicles (cars, taxis, light goods vehicles, and light buses only) for a period of three years;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) one public comment from a member of the Yuen Long District Council (YLDC) was received during the statutory publication period. The YLDC

member objected to the application on the grounds that continual occupation of the site for other uses was not in line with the planning intention of the “Recreation” (“REC”) zone and the purposes of temporary planning approval; and it would frustrate the implementation of the long-term planning intention. The District Officer (Yuen Long) had no comment on the application and he had not received any local comments; and

- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. The “REC” zone was intended primarily for recreational developments for the use of the public. However, there was currently no known recreational proposal on the site. The current open storage of new vehicles was only temporary in nature and would not frustrate the long-term planning intention of the “REC” zone. Open storage of new vehicles including cars, taxis, light buses and light goods vehicles only was a relatively clean and tidy use compared with other temporary uses and would have less on-site and off-site vehicular traffic than a public vehicle park. It was unlikely that the development would have significant adverse traffic and environmental impacts on the surrounding area. In this regard, the Director of Environmental Protection had no objection to the application. Furthermore, stipulation of restrictions on operation hours, car washing or other workshop activities as well as types of vehicles to be stored in the approval conditions would further reduce the potential impact on the surrounding environment. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorised development on-site would be subject to enforcement action. The application was in line with the Town Planning Board Guidelines No. 13E in that the site was granted with previous approvals, the applicant had complied with all the approval conditions in the previous applications, and relevant Government departments had no adverse comments on the application. As regards the public comment received from a YLDC Member objecting to the application, there was currently no known recreational proposal on the site. Given the temporary nature of the

applied use, the long-term planning intention of the “REC” zone would not be compromised.

[Mr. Timothy K.W. Ma returned to joint the meeting at this point.]

87. Members had no question on the application.

#### Deliberation Session

88. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 9:00 p.m. and 9:30 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no repair, car washing or other workshop activities were allowed on the site at any time during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance, buses exceeding 16 seats, container vehicles, container tractors and trailers were allowed to be parked on the site at any time during the planning approval period;
- (d) the delivery route to and from the site via Tin Wah Road, as proposed by the applicant, should be adhered to at all times during the planning approval period;
- (e) the provision of a waterworks reserve within 1.5m from the centreline of the affected water mains within the site at all times during the planning approval period;
- (f) the existing landscape planting on the site should be maintained at all times during the approval period;



- (g) the existing drainage facilities on the site should be maintained at all times during the approval period;
- (h) the submission of the condition record of the existing drainage facilities on-site within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.9.2010;
- (i) the provision of peripheral fencing within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.9.2010;
- (j) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (k) in relation to (j) above, the provision of fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.12.2010;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (m) if any of the above planning conditions (h), (i), (j) or (k) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (n) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) prior planning permission should have been obtained before continuing the applied use at the application site;
- (b) the permission was given to the use/development under application. It did not condone any other use/development (including open storages of container tractors) which currently existed on the site but not covered by the application. The applicant should be requested to take immediate action to discontinue such use/development not covered by the permission;
- (c) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (d) to note the comments of the District Lands Officer/Yuen Long that occupier of the Government land and registered owner of the lots concerned except Lot 93 in D.D. 126 should apply to his Office for Short Term Tenancy (STT)/Short Term Waiver (STW) to regularise the irregularities on-site. Should no STT/STW application be received/approved and the irregularities persist on-site, his Office would consider taking appropriate land control/lease enforcement action against the occupier/registered owner;
- (e) to adopt environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise any possible environmental nuisances;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that HyD should not be responsible for maintenance of any access connecting the site and Tin Wah Road;
- (g) to note the comments of the Director of Fire Services on the requirements on formulating fire service installations proposal in Appendix V of the

Paper;

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that unauthorised building works should be removed. All proposed building works were subject to compliance with Buildings Ordinance (BO). An authorised person must be appointed to co-ordinate all building works in accordance with the BO. The granting of planning approval should not be construed as an acceptance of the unauthorised building works on-site under the BO. Enforcement action might be taken to effect the removal of all unauthorised building works in the future; and
- (i) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that no structure should be erected over the waterworks reserve and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorise.

### **Agenda Item 19**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/317            Temporary Public Vehicle Park for Private Cars, Lorries and Coaches for a Period of 3 Years in “Village Type Development” zone, Lots 429, 431(Part), 436(Part), 437, 438SA, 446(Part), 447(Part) and 449RP(Part) in D.D. 122, Hang Mei Tsuen, Ping Shan, Yuen Long (RNTPC Paper No. A/YL-PS/317)

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

90.            Mr. W.M. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary public vehicle park for private cars, lorries and coaches for a period of 3 Years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the site and access road and environmental nuisance was expected;
- (d) no public comment was received during the statutory publication period and the District Officer (Yuen Long) did not receive any no local comment; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 11 of the Paper in that :
  - although land within “Village Type Development” (“V”) zone was primarily intended for development of Small Houses by indigenous villagers, there was currently no Small House application within the site as advised by the District Lands Officer/Yuen Long. As such, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone. The parking of private cars and light goods vehicles was not incompatible with the surrounding low-rise village settlements and would help meet the parking demand of local villagers in the area;
  - the site was also close to the Ping Shan Heritage Trail which was a popular tourist attraction. Although the Commissioner for Tourism advised that many overseas tourists visiting the heritage trail would normally go there by public transport, the Antiquities and Monuments Office of Leisure and Cultural Services Department pointed out that the Ping Shan Heritage Trail was also popular with the locals and visited by

many local tour groups and students who usually came by coach;

- the site was the subject of six previously approved for public vehicle parks either by the Board on review or the Committee on sympathetic considerations that the Ping Shan Heritage Trail was a popular tourist spot and the provision of a proper and convenient coach park was necessary; and the local traffic situation would be worsened if coaches were not allowed to be parked at the site. Approval conditions relating to drainage record, fire service installations and road sign improvement under Application No. A/YL-PS/294 had been complied with by the applicant. The planning permission of Application No. A/YL-PS/294 lapsed on 13.2.2010. Since approval of the last application, there was no material change in the planning circumstances;
- however, a local complaint was received concerning excessive heavy vehicles parked on-site especially on the eastern portion which was proposed for parking private cars and light goods vehicles only. Although the situation was subsequently rectified, it was recommended to approve the application for a shorter period of 12 months, instead of three years as proposed by the applicant, to further monitor the operation of the vehicle park;
- DEP did not support the application as lorries and coaches would be allowed to park on the site and there were sensitive uses in the vicinity of the site and environmental nuisance was expected. To reduce the potential nuisance, the applicant had proposed a layout in which the vehicle park would be divided into two portions. Small vehicles such as private cars, light goods vehicles and light buses would be parked on the eastern portion of the site which was nearer to the village houses, and coaches and lorries would be parked in the western portion which was further away from the village houses. Relevant conditions to require adherence to this parking arrangement, to prohibit parking of heavy vehicles, to restrict operation hours as well as to provide periphery fencing were recommended to minimise the possible environmental

impacts; and

- concerned Government departments had no adverse comments on the application. To address the technical requirements of relevant Government departments, approval conditions had been recommended in paragraph 12.2 of the Paper. There was also no local objection against the application.

91. Members had no question on the application.

#### Deliberation Session

92. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 12 months until 19.3.2011, instead of 3 years sought, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no vehicles without valid licences issued under the Road Traffic Ordinance were allowed to be parked/stored on the site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance or container vehicles, container trailers and trailers were allowed to be parked on the site at any time during the planning approval period;
- (c) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, was allowed at the site during the planning approval period;
- (d) the parking layout arrangement, as proposed by the applicant, should be adhered to at all times during the planning approval period;
- (e) the existing drainage facilities implemented under Application No. A/YL-PS/294 on the site should be maintained during the planning

approval period;

- (f) the submission of the condition record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.6.2010;
- (g) the implementation of compensatory planting in the site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.6.2010;
- (h) the provision of peripheral fencing within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.6.2010;
- (i) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.6.2010;
- (j) in relation to (i) above, the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (l) if any of the above planning conditions (f), (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (m) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of

Planning or of the TPB.

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

- (a) prior planning permission should have been obtained before continuing the applied use at the application site;
- (b) shorter approval period and compliance periods were imposed so as to monitor the situation on site and fulfillment of approval conditions;
- (c) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (d) to note the comments of District Lands Officer/Yuen Long that the registered owner of the lots concerned should apply to his Office for Short Term Waiver (STW) to regularise the irregularities on-site. Should no STW application be received/approved and the irregularities persist on-site, his Office would consider taking appropriate lease enforcement action against the registered owner. The site was accessible through an informal village track on Government Land. His Office did not provide maintenance works to the track nor guarantee right-of-way;
- (e) to adopt the environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise any possible environmental nuisances;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that HyD should not be responsible for the maintenance of any access connecting the site and Ping Ha Road;
- (g) to note the comments of Chief Building Surveyor/New Territories West, Buildings Department on the removal of unauthorised structures on-site which were liable to action under section 24 of the Buildings Ordinance



(BO). The granting of this planning approval should not be construed as condoning to any unauthorised structures existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required. Containers to be used as offices or toilets were considered as temporary buildings and were subject to control under Building (Planning) Regulations (B(P)R) Part VII. If the site did not abut on a specified street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage;

- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that there were some shrubs removed from the existing planters and should be compensated;
- (i) to note the comments of the Director of Fire Services that the applicant should submit relevant layout plans incorporated with the proposed fire service installations (FSIs) for his approval. In formulating FSIs proposal for the proposed structures, the applicant was advised to make reference to the requirement that portable hand-operated approved appliance should be provided as required by occupancy and should be clearly indicated on plans. Should the applicant wish to apply for exemption from the provision of certain FSIs, the applicant was required to provide justifications for his consideration; and
- (j) to note the comments of the Antiquities and Monuments Office, Leisure and Cultural Services Department that no ground excavation work was to be involved.

[The Chairperson thanked Mr. W.M. Lam, STP/TMYL, for his attendance to answer Members' enquires. Mr. Lam left the meeting at this point.]

**Agenda Item 20**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/666            Temporary Open Storage of Construction Machinery and Recycling Materials and Car Park (with Ancillary Workshops and Offices) for a Period of 3 Years in “Undetermined” zone, Lots No. 1805 (Part), 1831 (Part), 1832 (Part), 1836 (Part) and 1837 (Part) in D.D.125, Ha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-HT/666)

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**Presentation and Question Sessions**

94.            Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a)    background to the application;
- (b)    the temporary open storage of construction machinery and recycling materials and car park (with ancillary workshops and offices) for a period of 3 years;
- (c)    departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d)    no public comment was received during the statutory publication period and District Officer (Yuen Long) did not receive any no local comment; and
- (e)    the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. The applied use was not incompatible with the surrounding land uses in the subject “Undetermined” (“U”) zone. There was also no known development for the site. There was no sensitive receiver in the vicinity of the site and the Director of Environmental Protection had no adverse

comment on the application. Nevertheless, to mitigate any potential environmental impacts, approval conditions on restrictions of operation hours and the types of vehicles to be parked on-site/allowed to access the site had been recommended. Any non-compliance with these approval conditions would result in revocation of the planning permission and Unauthorized Development on-site would be subject to enforcement action. The development was also in line with the Town Planning Board Guidelines No. 13E in that there was no adverse comment from concerned Government departments. To address the technical requirements of relevant Government departments, approval conditions had been recommended in paragraph 13.2 of the Paper. The Committee had previously approved five applications for similar temporary open storage and workshop uses since 1996. Due to the demand for open storage and port back-up uses in the area, the Committee had also approved similar applications within the same "U" zone. As the site was in close vicinity of these similar applications, and there had been no material change in the planning circumstances since the granting of previous and similar approvals, approval of the subject application was in line with the Committee's previous decisions. The last previous approvals (Applications No. A/YL-HT/509 and 510) covering the western and eastern parts of the site respectively were revoked due to non-compliance with the approval condition on the provision of fire service installations (FSIs), which was the only approval condition that had not been complied with. The applicant explained that it was due to his lack of experience in providing such equipment. He had also submitted a FSIs proposal with the application, which was however considered not acceptable by Director of Fire Services. Hence, shorter periods for compliance with approval conditions were proposed to monitor the progress of compliance should the Committee decide to approve the application. Moreover, the applicant would be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application. There was no local objection against the application.

95. Members had no question on the application.

Deliberation Session

96. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night time operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the site during the approval period;
- (b) no operation on Sundays and public holidays was allowed on the open storage and workshop portions of the site during the planning approval period;
- (c) no medium or heavy vehicle (i.e. over 5.5 tonnes) as defined in the Road Traffic Ordinance, or container trailer/tractor was allowed to be parked on-site, as proposed by the applicant, during the planning approval period;
- (d) no container trailer/tractor was allowed to access the site, as proposed by the applicant, during the planning approval period;
- (e) the existing drainage facilities implemented under the previous approved applications No. A/YL-HT/509 and No. A/YL-HT/510 should be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.6.2010;
- (g) the submission of tree preservation and landscape proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.6.2010;

- (h) in relation to (g) above, the implementation of the tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.9.2010;
- (i) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of Director of Fire Services or of the TPB by 19.6.2010;
- (j) in relation to (i) above, the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (l) if any of the above planning conditions (f), (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) prior planning permission should have been obtained before commencing the development on the site;
- (b) shorter compliance periods were granted in order to monitor the fulfillment of approval conditions. Should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (c) to resolve any land issues relating to the development with the concerned

owner(s) of the application site;

- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots granted under the Block Government Lease upon which no structure was allowed to be erected without prior approval from his Office; and to apply for Short Term Waiver (STW) to regularize the unauthorized structures on-site. Should no STW application be received/approved and the irregularities persist on-site, his Office would consider taking lease enforcement action against the lot owner. Access to the site from Ping Ha Road required passing through other private land and his Office did not guarantee right-of-way;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance;
- (f) to note the comments of the Chief Engineer/Land Works, Civil Engineering and Development Department that the access road to the site was located near Ping Ha Road which was within the works limit of Contract No. CV/2006/01 'Ping Ha Road Improvement Works (Ha Tsuen Section)', which construction works commenced in December 2007 for completion by end 2010; that ingress/egress route to/from the site might be affected during the construction period for the widening of Ping Ha Road and the applicant should not be entitled for any compensation thereof;
- (g) to note the comments of the Director of Fire Services on the following requirements of formulating fire service installations (FSI) proposal:
  - (i) sufficient emergency lighting should be provided throughout the entire building in accordance with BS 5266: Part 1 and BS EN 1838;
  - (ii) sufficient directional and exit sign should be provided in accordance with BS 5266: Part 1 and FSD Circular Letter 5/2008;

- (iii) fire alarm system should be provided throughout the entire building in accordance with BS 5839: Part 1: 1988 and FSD Circular Letter 1/2002. One actuating point and one audio warning device should be located at each hose reel point. This actuation point should include facilities for fire pump start and audio/visual warning device initiation;
- (iv) a modified hose reel system supplied by 2 m<sup>3</sup> fire service (FS) water tank should be provided. There should be sufficient hose reels to ensure that every part of each building could be reached by a length of not more than 30m of hose reel tubing. The FS water tank, FS pump room and hose reel should be clearly marked on plans;
- (v) portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans;
- (vi) in case the aggregated floor area of any building/structure exceeded 230m<sup>2</sup>, sprinkler system should be provided to the entire building in accordance with BS EN 12845: 2003 and FSD Circular Letter 3/2006. The classification of occupancies and capacity of sprinkler tank should be clearly stated. The sprinkler tank, sprinkler pump room, sprinkler inlet, sprinkler control valve group should be clearly marked on plans;
- (vii) for temporary structure of area not exceeding 230 m<sup>2</sup> in the form of an open shed without storage or storage of indisputable non-combustibles or standalone container used as office and store (except Dangerous Goods), portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans;
- (viii) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;

- (ix) the location of where the proposed FSIs were to be installed should be clearly marked on the layout plans; and
  - (x) should the applicant wish to apply for exemption from the provision of certain FSIs, the applicant was required to provide justifications to him for consideration;
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department to remove existing structures that apparently had not obtained approval under the Buildings Ordinance (BO). Any temporary buildings were subject to control under Building (Planning) Regulation (B(P)R) Part VII. Provision of emergency vehicular access was applicable under B(P)R 41D, and access to site under B(P)R 5 was also applicable. Formal submission under the BO was required for any proposed new works, including any temporary structures. If the site was not abutting on a specified street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage; and
- (i) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that for provision of water supply to the development, the applicant might need to extend his inside services to the nearest suitable Government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.



**Agenda Items 21 and 22**

**Section 16 Applications**

[Open Meeting]

A/YL-NSW/195 Proposed Residential Development and Filling of Ponds  
in “Undetermined” zone,  
Lots 1288 S.B RP (Part), 1289 S.B RP (Part) and  
1292 S.B RP (Part) in D.D. 115, Tung Shing Lei, Nam Sang Wai,  
Yuen Long  
(RNTPC Paper No. A/YL-NSW/195)

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A/YL-NSW/196 Proposed Residential Development and Filling of Ponds  
in “Undetermined” zone,  
Lots 1288 S.B RP (Part) and 1288 S.G RP in D.D. 115,  
Tung Shing Lei, Nam Sang Wai, Yuen Long  
(RNTPC Paper No. A/YL-NSW/196)

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98. The Committee noted that Applications No. A/YL-NSW/195 and 196 were applied for the same use by the same applicant within the same “U” zone, which were also scheduled for consideration at this meeting. The applicants had requested the Town Planning Board (the Board) to defer consideration of the two applications.

99. The Secretary reported that Professor David Dudgeon and Dr. C.N. Ng had declared an interest in the two items as the World Wide Fund for Nature (WWF) Hong Kong and the Conservancy Association (CA) had submitted comments on the two applications. Professor Dudgeon was a trustee/Member of the Mai Po Management and Development Committee of WWF, and Dr. Ng was the Director of the CA in 2009/2010. As the applicant had requested for a deferment of consideration of the two applications, the Committee agreed that Professor Dudgeon and Dr. Ng could be allowed to stay at the meeting.

100. The Committee noted that on 3.3.2010, the applicant’s agent wrote to the Secretary of the Board and requested the Board to defer consideration of the applications for a period of two months so as to allow sufficient time for the preparation of further information in view of the departmental comments received.

101. After deliberation, the Committee decided to defer a decision on the applications as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the applications should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of submission of the further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 23**

#### **Section 16 Application**

[Open Meeting]

A/YL-NSW/197 Proposed Residential Development and Filling of Ponds in “Undetermined” zone, Lots 12, 13 RP and 14 in D.D. 103 and Lots 625 S.B, 625 RP, 627 RP, 630 S.B RP (Part), 634 S.A (Part), 635 (Part), 636 S.A (Part), 637, 638, 660, 661, 662, 663, 664, 665, 712 RP (Part), 794 S.A (Part), 1288 S.K, 1288 RP, 1292 RP and 1327 RP (Part) in D.D. 115 and Adjoining Government Land, Tung Shing Lei, Nam Sang Wai, Yuen Long  
(RNTPC Paper No. A/YL-NSW/197)

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102. The Secretary reported that Professor David Dudgeon and Dr. C.N. Ng had declared an interest in the item as the World Wide Fund for Nature (WWF) Hong Kong and the Conservancy Association (CA) had submitted comments on this item. Professor Dudgeon was a trustee/Member of the Mai Po Management and Development Committee of WWF, and Dr. Ng was the Director of the CA in 2009/2010. As the applicant had requested for a deferment of consideration of the application, the Committee agreed that Professor Dudgeon and Dr. Ng could be allowed to stay at the meeting.

103. The Committee noted that on 1.3.2010, the applicant’s agent wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for a period of two months so as to allow sufficient time for the preparation of further information in view of the departmental comments received.

104. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Dr. James C.W. Lau left the meeting at this point.]

#### **Agenda Item 24**

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

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/246      Renewal of Planning Approval for Temporary Private Swimming Pool  
for a Period of 3 Years in “Village Type Development” zone,  
Lot 2158 RP in D.D. 104, Ngau Tam Mei, Yuen Long  
(RNTPC Paper No. A/YL-NTM/246)

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

105. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the renewal of planning approval for temporary private swimming pool for a period of 3 years;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) no public comment was received during the statutory publication period

and the District Officer (Yuen Long) had no comment on the application;  
and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. This was a renewal application to continue the planning permission for the proposed private swimming pool for another 3 years. There had been no material change in planning circumstances since the last approval also for a period of 3 years by the Committee in 2007. Although the proposed swimming pool was not in line with the planning intention of the “Village Type Development” (“V”) zone, according to District Lands Office/Yuen Long (DLO/YL), there was no Small House development proposal on the site. Given the temporary nature of the proposed renewal of the planning approval, the long-term planning intention of the “V” zone would not be jeopardized. DLO/YL had no adverse comment on the proposed renewal of the planning permission in this regard. Planning conditions under the previous approval on the submission of landscape and drainage proposals had been complied with. Regarding the non-compliance with those planning conditions on the provision of drainage facilities and implementation of landscape proposals, the applicant explained that he had faced difficulties in obtaining consent to commencement of works and implementing the proposed drainage works. He could only obtain the consent to commencement of works on 8.1.2010 when there was only about six months left for the planning permission. However the applicant estimated that at least eight more months were required to complete the swimming pool structures after which the concerned drainage and landscape works could be implemented and provided. It was noted that the applicant had made continuous efforts in pursuing with the approval conditions of the previous permission. The proposed swimming pool was considered not incompatible with the surrounding land uses which was and would be predominantly occupied by village type residential development. With its small scale, it would also unlikely create any significant adverse impacts on the existing landscape, traffic and infrastructural provisions on the surrounding environment. In this regard, there was no adverse

comment from concerned Government departments, and to address the technical requirements of relevant Government departments, approval conditions had been recommended in paragraph 13.2 of the Paper. There was no local objection to the application.

106. Members had no question on the application.

#### Deliberation Session

107. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the proposed swimming pool should not be open to members of the public;
- (b) the implementation of approved landscape proposals under Application No. A/YL-NTM/213 within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.12.2010;
- (c) the provision of the approved drainage facilities under Application No. A/YL-NTM/213 within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.12.2010;
- (d) in relation to (c) above, the maintenance of the implemented drainage facilities during the planning approval period to the satisfaction of the Director of Drainage Services or of the TPB;
- (e) if any of the above planning conditions (a) or (d) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (f) if any of the above planning conditions (b) or (c) was not complied with by

the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and

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

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

- (a) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) to note the comments of the District Lands Officer/Yuen Long that an application for Short Term Waiver (STW) for regularization of the private swimming pool had been received by his Office. Should planning permission be granted, his Office would continue to proceed with the application. Should no STW application be approved and irregularities were indeed found on site, his Office would consider taking appropriate lease enforcement action against the registered owner according to the prevailing programme of his Office in this regard;
- (c) to note the comments of the Director of Environmental Protection that the applicant was advised to note the requirements under the Water Pollution Control Ordinance if there was any effluent to be discharged from the proposed development;
- (d) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that the proposed swimming pool must be granted with a valid swimming pool licence issued by the DFEH if it served more than 20 residential units and the public had access to it. The applicant should note the Swimming Pools Regulation under section 42 of the Public Health and Municipal Services Ordinance (Cap. 132). The applicant should also be advised to apply a swimming pool licence from his Department. Also the operation of the swimming pool must not cause any environmental

nuisance to the surrounding; and

- (e) to note the advice of the Chief Engineer/Development(2), Water Supplies Department that the applicant might need to extend his inside services to the nearest suitable Government water mains for connection for provision of water supply to the development. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to his Department's standard.

### **Agenda Item 25**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/247      Temporary Lorry and Container Tractor/Trailer Park with Ancillary Workshop and Staff Canteen for a Period of 3 Years in "Open Storage" zone, Lot 647 RP (Part) in D.D. 99, Lots 2971 RP (Part), 2972 (Part), 2975 (Part), 2976, 2977, 2978 RP, 2979, 2980, 2981 RP, 2982 RP, 2983 RP (Part), 2986 RP, 2987 RP (Part) and 2988 RP in D.D. 102, and Adjoining Government Land, Ngau Tam Mei, Yuen Long (RNTPC Paper No. A/YL-NTM/247)

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

109.            The Committee noted that replacement of pages 12 and 13 of the Paper to rectify the typing errors in approval conditions (b), (j) and (k) in paragraph 13.2 were tabled at the meeting for Members' reference.

110.            Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the temporary lorry and container tractor/trailer park with ancillary workshop and staff canteen for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application because there were sensitive receivers in the vicinity of the site, and environmental nuisance was expected. However, DEP had not received any complaints about the site in the past three years;
- (d) no public comment was received during the statutory publication period and the District Officer (Yuen Long) did not receive any no local comment; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. The temporary lorry and container tractor/trailer park with ancillary workshop and staff canteen were generally in line with the planning intention of the “Open Storage” (“OS”) zone which was intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. The applied uses at the site were generally not incompatible with the surrounding uses, which included vehicle repair workshop, open storage yards of containers, warehouses and vehicle parks. The site was the subject of five previous approvals. The last application No. A/YL-NTM/208 for the same use had been approved by the Board on review on 1.6.2007. The current application covered six more structures with an additional GFA of 184.5m<sup>2</sup>. There was no major change in the planning circumstances in the area. Continuation of the applied uses at the site which were in line with the planning intention was considered suitable. Besides, conditions of the last application related to landscaping, drainage, run-in and fire safety aspects were complied with, although the permission lapsed recently on 2.2.2010. The development was in line with the Town Planning Board Guideline No. 13E in that there was generally no adverse comment from most of the concerned Government departments. While DEP did not support the



application as there were sensitive receivers in the vicinity of the site, there was however no local objection received on environmental aspects in the current application. DEP also had not received any complaints about the site in the past three years. To address the technical requirements of relevant Government departments, approval conditions had been recommended in paragraph 13.2 of the Paper. Any non-compliance with these approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action. Moreover, similar applications within the same “OS” zone had recently been approved by the Committee based on similar considerations. Approval of the subject application was in line with the Committee’s or the Board’s previous decisions.

111. Members had no question on the application.

#### Deliberation Session

112. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) vacation of the site at the time of the Northern Link railway development;
- (b) no night-time operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no operation on Sundays and public holidays between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (d) the existing trees on the site should be maintained at all times during the planning approval period;
- (e) the implementation of the compensatory planting within 6 months to the

satisfaction of the Director of Planning or of the TPB by 19.9.2010;

- (f) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.9.2010;
- (g) in relation to (f) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.12.2010;
- (h) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (i) in relation to (h) above, the provision of fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.12.2010;
- (j) if any of the above planning conditions (a), (b), (c) or (d) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (k) if any of the above planning conditions (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.

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

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) to resolve any land issue relating to the development with the concerned

owner(s) of the application site;

- (c) to note the comments of the District Lands Officer/Yuen Long, Lands Department that a piece of unleased Government land was occupied without approval from his Office and unauthorized structures (including converted containers) were found erected within the application site. His Office reserved the right to take appropriate control action against these irregularities, if indeed found in due course. The northern portion of the application site fell within the project limit of the proposed “RDS 2000 NOL Administrative Route Protection Boundary”. The north-western part of the site encroached upon GLA-TYL553, a current project known as “Improvements to San Tin Interchange” under the Chief Engineer/Works, Highways Department. An application of Short Term Waiver (STW) in respect of Lot Nos. 2972, 2975, 2976, 2981RP and 2986RP in D.D. 102 for regularization of the structures had been received by his Office and was now under processing. Should planning approval be given, the registered owner(s) of and the occupier(s) of lot(s) concerned should be reminded to apply to his Office for STW/Short Term Tenancy (STT) to regularize the irregularities on-site. Should no STW/STT application be received/ approved and the irregularities persist on site, his Office would consider taking appropriate lease enforcement action against the registered owner(s). The ingress/egress of the site did not abut on Kwu Tung Road. A short track ran through a piece of open Government land without maintenance works to be carried out thereon by his Office provided accessibility to the site. His Office did not guarantee right-of-way to the application site;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that he was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and Kwu Tung Road;
- (e) to note the comments of the Director of Environmental Protection that the applicant was advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued

by the Environmental Protection Department to minimize potential environmental impacts on the surrounding areas. The effluent discharge of the proposed use would be subject to the control of Water Pollution Control Ordinance (WPCO). It was the applicant's obligation under the WPCO that effluent from the operation should meet the WPCO requirements prior to discharge;

- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the applicant was fully responsible for the proper maintenance of the drainage facilities on site. The applicant was required to ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas. No public stormwater drainage maintained by him was currently available for connection. The area was probably being served by some of the existing local village drains which were probably maintained by District Officer/Yuen Long (DO/YL). The applicant should approach DO/YL if the applicant wished to know more about these drains. If the proposed discharge point was to these drains, the applicant should seek an agreement from the relevant department on the proposal. No public sewerage maintained by him was currently available for connection. For sewage disposal and treatment, agreement from the Director of Environmental Protection should be obtained. The applicant was reminded that the drainage proposal/works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction. The applicant should consult District Lands Officer/Yuen Long regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the application site in future. All proposed drainage facilities should be constructed and maintained by the applicant at his own cost;
  
- (g) to note the comments of the Director of Fire Services that should the applicant wish to apply for exemption from the provision of certain fire service installations as mentioned at Appendix V of the Paper, the applicant should provide justifications to his Department for consideration;

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that existing structures that apparently had not been obtained approval under the Buildings Ordinance (BO) should be removed. Any temporary buildings were subject to control under Building (Planning) Regulations (B(P)R) Pt. VII. Provision of emergency vehicular access was applicable under B(P)R 41D. If the site was not abutting on a specified street having a width of not less than 4.5m, the development intensity should be determined under the B(P)R 19(3) and the accessibility of the site under B(P)R 5 should be considered at the building plan submission stage. Formal submission under the BO was required for any proposed new works, including temporary structures; and
  
- (i) to note the comments of the Director of Food and Environmental Hygiene that a proper food licence issued by his Department was necessary or the staff canteen need to be registered by his Department if any food handling or any class of food business was to be conducted in the premises.

[The Chairperson thanked Mr. Anthony C.Y. Lee, STP/TMYL, for his attendance to answer Members' enquires. Mr. Lee left the meeting at this point.]

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

**Agenda Item 26**

**Section 16 Application**

[Open Meeting]

A/YL-KTN/317 Proposed Residential Development and Enhanced Wetland Reserve in “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” zone,  
Lots 111 RP, 112 RP, 114 RP, 115 RP, 116 RP, 120 RP, 260 RP (Part), 261 RP, 262 RP, 263 (Part), 264 S.(A to D) RP, 264 S.(E to H) RP, 266 S.B RP, 268 S.(A to B) (Part), 268 S.C RP and 269 S.B (Part) in D.D. 109 and Adjoining Government Land, Kam Tin, Yuen Long  
(Supplementary Paper to RNTPC Paper No. A/YL-KTN/317)

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114. The Committee noted that the Planning Department (PlanD) requested the Town Planning Board (the Board) to defer consideration of the application. The Secretary reported that the application was submitted by a subsidiary of Cheung Kong (Holdings) Ltd. (CKH). Dr. James C.W. Lau had declared an interest in this item as he had current business dealings with Ho Tin & Associates Consulting Engineers Ltd., who was a member of the consultancy team for the applicant. As PlanD had requested for a deferment of consideration of the application, Members agreed that Dr. Lau could be allowed to stay at the meeting.

115. The Secretary informed Members that a Supplementary Paper to RNTPC Paper No. A/YL-KTN/317 had been prepared by the PlanD for the deferral request and tabled at the meeting for Members’ consideration. Members noted that PlanD proposed to defer the consideration of the application as on 17.3.2010, i.e. 2 days before the meeting of the Committee, the applicant submitted further information (FI) providing his views on the mechanism to ensure the implementation of the proposed wetland reserve within the site and his responses to the comments of the District Lands Office/Yuen Long (DLO/YL) relating to the exclusion of the proposed wetland reserve from the land grant. The applicant’s FI had been circulated to relevant departments on 18.3.2010 by PlanD. Further comments from DLO/YL, the Director of Agriculture, Fisheries and Conservation and the Director of Environmental Protection were not yet available. Since the FI was material to the consideration of the application, PlanD recommended to defer a decision on the subject application to the meeting scheduled on 23.4.2010.

116. A Member said that as the FI involved information on the proposed wetland reserve, it was an issue that required a proper consideration. This Member considered that it would be appropriate to defer consideration of the application to allow more time for the concerned Government departments to consider the FI. Other Members agreed.

117. After further deliberation, the Committee decided to defer a decision on the application as requested by PlanD pending the comments from the relevant Government departments on the FI. The Committee also agreed that the application should be submitted to the Committee for consideration at the meeting scheduled on 23.4.2010 upon receipt of the comments from the relevant Government departments.

### **Agenda Item 27**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTS/455      Proposed Houses  
in “Other Specified Uses” annotated “Rural Use” zone,  
Lot 618 RP in D.D. 106 and Adjoining Government Land,  
Kam Sheung Road, Yuen Long  
(RNTPC Paper No. A/YL-KTS/455)

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

118. With the aid of a PowerPoint presentation, Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed houses;
- (c) departmental comments – the comments from the concerned Government departments were :

- the Director of Environmental Protection (DEP) was unable to lend support to the application. The subject site was adjacent to Kam Sheung Road and located in the vicinity of some industrial uses such as workshops and open storage sites. In the previous several rounds of departmental circulations, DEP had already raised grave concern on the potential Industrial/Residential (I/R) interface problem on the site including industrial noise impact during night time as well as the road traffic noise impact from Kam Sheung Road. The applicant's submission had not provided a comprehensive list of equipment and activities for the adjacent industrial uses. As a result, I/R interface noise problem might still occur despite the planning application process, because the worst-case scenario on the noise aspect had not been established in the applicant's environmental assessment;
  
- the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application in view of the height (12.5m) and extent of the proposed noise barriers along the southern and western boundaries of the site and the insufficient information to demonstrate if adverse visual impact would be generated by the proposed noise barriers on the surrounding visual sensitive receivers (VSRs);
  
- the Chief Architect/Advisory and Statutory Compliance, Architectural Services Department (CA/ASC, ArchSD) considered that the proposed 5.1m high noise barrier along the pavement of Kam Sheung Road, especially the lower portion, appeared to be quite solid and blank and not in harmony with its rural context. CA/ASC, ArchSD also pointed out that as there was no photomontage or images showing the complete length of the 12.5m high noise barriers and its surroundings, he was not able to provide comment on the visual impact of the proposed noise barriers. However, it appeared that the scale of noise barriers of this height would seem to be out of proportion in this rural context, particularly taking into consideration of the overall building height of 9m of the proposed development, and was therefore considered undesirable



from the visual impact point of view;

- the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) considered the drainage proposal submitted by the applicant was not satisfactory;
  - the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) considered that the proposed development should not occupy any Government land along Kam Sheung Road as it would reduce the width of the existing footpath; and
  - the District Lands Officer/Yuen Long (DLO/YL) noted that flower beds with trees and plants were proposed on Government land/pavement along Kam Sheung Road. Unless the concerned management and/or maintenance departments agreed to take over the new flower beds and vegetation, such structures and vegetation should not encroach onto Government land. Moreover, the site fell within the village 'environs' of Ng Ka Tsuen. Under the prevailing small house policy, land falling within the 'VE' was primarily preserved for small house development by indigenous villagers. However, there was no Small House application received from the villagers within the past 10 years;
- (d) two public comments objecting to the application were received during the statutory publication period. The commenters, including two village representatives of Shek Wu Tong and a member of the public, objected to the application on the grounds that the proposed development would spoil the rural environment and cause adverse impacts on the environment, drainage, traffic and Fung Shui of the village. The District Officer (Yuen Long) did not receive any no local comment; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments made in paragraph 12 of the Paper. PlanD's assessments of the application were summarized below :

- the planning intention of the “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) zone was for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, might be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities. Low-rise recreational and residential development compatible with the rural landscape might be permitted on application to the Board subject to the demonstration of sustainability in ecological, environmental, traffic and infrastructural terms;
  
- the proposed development comprising 10 houses with a plot ratio of 0.4 and a building height of 2 storeys over carport was generally in line with the development restrictions of the “OU(RU)” zone. However, the applicant failed to demonstrate that the proposed development would be sustainable in environmental, visual and drainage terms. The applicant’s submission was unable to address the departmental concerns on the environment, visual and drainage aspects and therefore did not comply with the Town Planning Board Guidelines No. 38 (TPB PG-No. 38). DEP did not support the application as there were technical deficiencies in the noise impact assessment. There was grave concern on the potential I/R interface problem on the site including the industrial noise arising from the nearby open storage yards and workshops and the traffic noise from Kam Sheung Road. According to DEP, the environmental assessment had failed to capture the worst-case scenario on the noise aspect, and therefore the applicant could not demonstrate that the future residents of the proposed development would not be susceptible to adverse environmental impact. To minimize the noise from the nearby workshops and open storage uses, 12.5m high noise barriers were proposed along the southern and western boundaries of the site. CTP/UD&L had reservation on the application as the 12.5m high noise barriers would generate adverse visual impact on the surrounding visually sensitive receivers. CA/ASC, ArchSD also considered that the proposed 12.5m high noise barriers were undesirable from the visual point of view as the

height of the proposed noise barriers would seem to be out of proportion in the rural surroundings. He was also concerned about the 5.1m high noise barriers along Kam Sheung Road, which appeared to be solid and blank, were not in harmony with the rural context of the site. From the drainage point of view, CE/MN, DSD considered that the drainage proposal submitted was not satisfactory. The applicant should re-submit the drainage proposal and implement the drainage proposal to ensure that the proposed development would not cause any adverse drainage impact to the existing drainage facilities and the adjacent area;

- regarding the layout of the proposed development, flower beds with trees and plants were proposed at the eastern boundary of the site on the Government land of Kam Sheung Road. Such arrangement was not satisfactory as both AC for T/NT, TD and DLO/YL considered that the proposed flower beds or vegetation should not encroach onto the Government land as it would reduce the width of the existing footpath and no management and maintenance department for the flower beds and vegetation could be identified. The applicant should explore alternative layout options to improve the landscape quality of the site and the adjacent areas; and
- local objections or concerns about the adverse environment, traffic, drainage and fung shui impacts arising from the proposed development had been received.

119. Members had no question on the application.

#### Deliberation Session

120. Members then went through the reason for rejection as stated in paragraph 13.1 of the Paper and considered that it was appropriate. After further deliberation, the Committee decided to reject the application and the reason was :

- the proposed development did not comply with the ‘Town Planning Board Guidelines for Designation of "Other Specified Uses" annotated "Rural Use" ("OU(RU)") Zone and Application For Development within "OU(RU)" Zone under Section 16 of The Town Planning Ordinance’ (TPB PG-No. 38) in that the applicant failed to address in the submission the departmental concerns on the environment, visual and drainage aspects. The environmental assessment conducted by the applicant did not capture the worst-case scenario on the noise aspect, and therefore the applicant could not demonstrate that the future residents of the proposed development would not be susceptible to adverse environmental impact. The proposed 12.5m and 5.1m high noise barriers would generate adverse visual impact on the surrounding areas. The submitted drainage proposal was considered not acceptable by the relevant department.

### **Agenda Item 28**

#### **Section 16 Application**

[Open Meeting]

A/YL-KTS/472      Proposed Comprehensive Residential Development and Minor Relaxation in Building Height Restriction in “Comprehensive Development Area” zone, Lots 547 RP (Part) and 2160 RP in D.D. 106 and Adjoining Government Land, Tung Wui Road, Yuen Long (RNTPC Paper No. A/YL-KTS/472)

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121.      The Committee noted that the Planning Department (PlanD) requested the Town Planning Board (the Board) to defer consideration of the application. The Secretary reported that the application was submitted by a subsidiary of Henderson Land Development Co. Ltd. (HEND). Mr. Alfred Donald Yap and Dr. James C.W. Lau had declared an interest in this item as Mr. Yap had current business dealings with HEND and Dr. Lau had current business dealings with Ho Tin & Associates Consulting Engineers Ltd., who was a member of the consultancy team for the applicant. As PlanD had requested for a deferment of consideration of the application, Members agreed that Mr. Yap and Dr. Lau could be allowed to stay at the meeting.

122. The Committee noted that on 8.7.2009, the applicant submitted the application to seek planning permission for a comprehensive residential development comprising thirteen four-storey residential blocks, a resident's clubhouse and car parking facilities with provision of a landscaped area for public use on the application site (the site) proposed to be developed in two phases in the "Comprehensive Development Area" ("CDA") zone. The public landscaped amenity area was proposed according to the requirement of the "CDA" zone. The applicant proposed to take up the design and implementation works of the landscaped area for public use. However, the applicant proposed that the long-term management and maintenance responsibility should rest with the relevant Government departments. The Committee previously decided to defer a decision on the application for two months on 4.9.2009 and 20.11.2009 respectively as requested by the applicant in order to allow sufficient time to address the comments of the relevant departments. On 1.2.2010, the applicant submitted further information to address the departmental comments and re-activate the application. The application was scheduled for consideration by the Committee at this meeting. The Administration was now considering how to deal with the provision of the proposed public landscaped area at the site under the overall policy framework for provision of public open space in private developments. In this connection, the PlanD recommended the Committee to defer a decision on the application for three months pending the decision of the Administration in this regard.

123. After deliberation, the Committee decided to defer a decision on the application as requested by PlanD for three months pending the Administration's consideration on how to deal with the provision of the proposed public landscaped area at the site under the overall policy framework for provision of public open space in private developments. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of the Administration's decision.

**Agenda Item 29**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTS/488      Temporary Open Storage of Vehicles (Coaches and Tractors/Goods Vehicles) for Sale and Ancillary Facilities for a Period of 3 Years in “Agriculture” zone,  
Lots 462 S.B RP (Part), 463 RP, 465 S.B RP (Part), 520 RP (Part) and 521 RP in D.D. 103 and Adjoining Government Land,  
Ko Po Tsuen, Kam Tin, Yuen Long  
(RNTPC Paper No. A/YL-KTS/488)

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**Presentation and Question Sessions**

124.      Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary open storage of vehicles (coaches and tractors/goods vehicles) for sale and ancillary facilities for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers located to the north and east of the site, and environmental nuisance was expected;
- (d) no public comment was received during the statutory publication period and the District Officer (Yuen Long) (DO(YL)) had no comment on the application and DO(YL) had not received any local comments; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. The development was considered not incompatible with the surrounding land uses. The Director of Agriculture, Fisheries and Conservation had no strong view on the application. It was considered that the granting of

temporary planning permission would not frustrate the long-term planning intention of the “Agriculture” (“AGR”) zone on the OZP. The application was generally in line with the Town Planning Board Guideline No. 13E in that relevant Government departments, except DEP, had no objection or no adverse comment on the application. Previous approvals involving the site for different temporary storage uses had been granted by the Committee and there was no major change in the planning circumstances in the area since the planning approval was granted to the last application (No. A/YL-KTS/457). Although the last application was revoked due to non-compliance with the approval conditions related to implementation of drainage facilitates and fire service installations (FSIs), the applicant had complied with other approval conditions including the one related to the landscape aspect. While DEP did not support the application as there were residential structures/dwellings located to the north and east of the site with the nearest being located about 60m away to the north at Ko Po Tsuen and environmental nuisance was expected, no environmental complaint had been received by DEP in the past three years and no local objection had been received. Moreover, the residential structures/dwellings were separated from the site by Kam Tin Road or Tsing Long Highway (slip road). To address the technical requirements of relevant Government departments, approval conditions had been recommended in paragraph 13.2 of the Paper. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action. However, since the last approval (Application No. A/YL-KTS/457) was revoked due to non-compliance with the approval conditions, shorter compliance periods were proposed to monitor the progress of compliance should the Committee decide to approve the application. Moreover, the applicant would be advised that should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application. No local objection had been received on the application.

125. Members had no question on the application.

Deliberation Session

126. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, was allowed on the 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 vehicle dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out on the site during the planning approval period;
- (d) all existing trees and landscape plantings within the site should be maintained at all times during the planning approval period;
- (e) the submission of the drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.6.2010;
- (f) in relation to (e) above, the implementation of the drainage facilities within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.9.2010;
- (g) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.6.2010;
- (h) in relation to (g) above, the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the



Director of Fire Services or of the TPB by 19.9.2010;

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

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

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) shorter compliance periods were granted so as to monitor the fulfillment of approval conditions. Should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (c) to resolve any land issues relating to the development with the concerned owners of the site;
- (d) to note the comments of the District Lands Officer/Yuen Long that his Office reserved the right to take enforcement action against any irregularities and terminate the Modification of Tenancy (MOT) and Letter of Approval (L of A) if the structures covered by the MOT and L of A were converted into unauthorized uses without prior permission. His Office

also reserved the right to take control action against the unlawful occupation of Government land within the application site. Besides, the site was accessible by an informal track from Kam Tin Road, which ran through open Government land without maintenance works to be carried out thereon by his Office. His Office would not guarantee such right-of-way;

- (e) to adopt environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection to minimise any potential environmental nuisances;
- (f) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department that the land status of the road/path/track leading to the site should be checked with the lands authority. The management responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the drainage discharge/connection point should be clearly shown on the drainage plan. The size and details of the proposed drainage facilities should also be clearly indicated on the drainage plan. Beside, the applicant should submit a revised drainage proposal to demonstrate that the development would not obstruct overland flow or cause adverse drainage impact to the adjacent areas;
- (h) to note the comments of the Director of Fire Services that fire service installations (FSIs) were anticipated to be required in consideration of the design/nature of the proposed structures. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The layout plan should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans. In formulating the FSIs proposal for the

proposed structures, the applicant should observe the requirements in Appendix V of the Paper. If the applicant wished to apply for exemption from the provision of certain FSIs, justifications should be provided to his Department for consideration; and

- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the granting of this planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the BO or other enactment might be taken if contravention was found if the application be approved. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required. Container to be used as offices, storage or workshops were considered as temporary structures and were subject to control under Building (Planning) Regulations (B(P)R), Part VII. If the site did not abut on a specified street having a width not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage.

### **Agenda Item 30**

#### **Section 16 Application**

[Open Meeting]

A/YL-TT/257      Temporary Place of Entertainment (War Game Playground) for a Period of 3 Years in “Recreation” and “Green Belt” zones, Lots 1589 (Part), 1591 (Part), 1592, 1594 (Part), 1596 (Part), 1597, 1598, 1600 S.A (Part) and 1600 S.B (Part) in D.D. 117 and Adjoining Government Land, Tai Tong, Yuen Long  
(RNTPC Paper No. A/YL-TT/257)

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128.      The Committee noted that on 2.3.2010, the applicant’s representative wrote to the Secretary, Town Planning Board (the Board) and requested the Board to defer making a decision on the application for a period of 2 months in order to allow him to have more time to prepare supplementary information to address the environmental, landscape and drainage

issues in relation to the application.

129. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of submission of the further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 31**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/466 Temporary Open Storage of Construction Machinery, Construction Materials and Recycled Materials including Paper, Plastic and Metal for a Period of 3 Years in “Undetermined” zone,  
Lots 2359 (Part), 2362 (Part), 2363 (Part), 2364 (Part), 2365 (Part),  
2366 RP (Part), 2370(Part), 2371, 2372 (Part) and 2374 (Part) in  
D.D. 120 and Adjoining Government Land, Tong Yan San Tsuen,  
Yuen Long  
(RNTPC Paper No. A/YL-TYST/466)

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

130. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary open storage of construction machinery, construction materials and recycled materials including paper, plastic and metal for a period of 3 years;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers of residential uses to the south and southeast of the site, and environmental nuisance was expected. However, no environmental complaint concerning the site was received in the past three years;
- (d) no public comment was received during the statutory publication period and the District Officer (Yuen Long) did not receive any no local comment; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments made in paragraph 12 of the Paper. The application was generally in line with the Town Planning Board Guidelines No. 13E (TPB PG-No.13E) in that the concerns of relevant departments were technical in nature which could be addressed through the implementation of approval conditions. There were also similar applications in this part of the “Undetermined” (“U”) zone that had been approved with conditions. Although the site was zoned “U” on the OZP, the area was generally intended for open storage use but was designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, the Assistant Commissioner for Transport/New Territories had no adverse comment on the application. It was considered that approval of the application on a temporary basis for not more than three years would not frustrate the long-term use of the area. The development was not incompatible with the surrounding areas. Although DEP did not support the application as there were sensitive receivers of residential uses to the south and southeast of the site, there had not been any environmental complaint in the past three years. The applicant also proposed not to operate the site during night time between 5:00 p.m. and 9:00 a.m. and on Sundays and public holidays; not to carry out dismantling, repairing, cleansing, paint spraying or workshop activities on the site; and not to use heavy goods vehicles for the operation of the site. It was expected that the development would not generate significant environmental impact on the surrounding areas. To address environmental and technical concerns,

relevant approval conditions could be stipulated. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorized development on the site would be subject to enforcement action. Previous planning approvals had been granted for similar use on the site under Applications No. A/YL-TYST/294 and 372 submitted by the same applicant. All approval conditions in relation to landscaping, drainage and fire service aspects under the previous approvals had been compiled with. There was no local objection against the application.

131. Members had no question on the application.

#### Deliberation Session

132. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.3.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the application site during the planning approval period;
- (c) no used electrical appliances, televisions, computer monitors, computer parts or any other types of electronic waste were allowed to be stored on the application site during the planning approval period;
- (d) no dismantling, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, should be carried out on the application site at any time during the planning approval period;
- (e) no heavy goods vehicles exceeding 24 tonnes as defined in the Road

Traffic Ordinance and container tractors/trailers, as proposed by the applicant, were allowed for the operation of the application site at any time during the planning approval period;

- (f) the existing drainage facilities on the application site should be maintained at all times during the planning approval period;
- (g) the submission of landscape and tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.9.2010;
- (h) in relation to (g) above, the implementation of landscape and tree preservation proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 19.12.2010;
- (i) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.9.2010;
- (j) in relation to (i) above, the provision of fire service installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.12.2010;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (l) if any of the above planning conditions (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (m) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of

Planning or of the TPB.

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

- (a) the permission was given to the use/development under application. It did not condone any other use/development including the parking of container tractors/trailers which currently existed on the site but not covered by the application. The applicant should be requested to take immediate action to discontinue such use/development not covered by the permission;
- (b) prior planning permission should have been obtained before commencing the applied use at the application site;
- (c) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (d) to note the comments of the District Lands Officer/Yuen Long, Lands Department that his Office reserved the right to take enforcement/control action against the erection of unauthorized structures, including converted containers, on the lots within the site and the unauthorized occupation of Government land if indeed found in due course. The occupier of the Government land and the registered lot owners concerned should apply to his Office for Short Term Tenancy (STT) and Short Term Waiver (STW) to regularize the irregularities on the site. Should no STT/STW application be received/approved and the irregularities persist on-site, his Office would consider taking appropriate land control/lease enforcement action against the occupier/registered owners. Moreover, the site was accessible through an informal village track on Government land/other private land. His Office did not provide maintenance works to the track nor guarantee right-of-way;
- (e) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department that the land status of the road/path/track leading to the site should be checked with the lands authority, and the



management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;

- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his Department should not be responsible for the maintenance of any access to the site from Kung Um Road;
- (g) to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection to minimize any potential environmental nuisances;
- (h) to note the comments of the Director of Fire Services on the requirements on formulating fire service installations proposal in Appendix V of the Paper; and
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the existing structures that apparently had not been obtained approval under the Buildings Ordinance (BO) should be removed. Formal submission under the BO was required for any proposed new works, including temporary structures. Temporary structures were subject to control under the Building (Planning) Regulations (B(P)R) Part VII. The provision of emergency vehicular access and access to the site were also applicable under the B(P)R 41D and B(P)R 5 respectively. If the site did not abut on a specified street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage.

[The Chairperson thanked Mr. Kepler S.Y. Yuen, STP/TMYL, for his attendance to answer Members’ enquires. Mr. Yuen left the meeting at this point.]

**Agenda Item 32**

Section 16 Application

[Open Meeting]

A/YL-TYST/467      Temporary Open Storage of Recyclable Materials  
(including Metal and Plastic) for a Period of 3 Years  
in “Village Type Development” zone,  
Lots 287 (Part), 296 (Part), 298 (Part), 300 (Part), 301 (Part),  
302 S.A (Part), 302 RP (Part), 303 (Part) and 304 (Part) in D.D.119,  
Tong Yan San Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-TYST/467)

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134.            The Committee noted that on 10.3.2010, a letter dated 8.3.2010 to the Secretary, Town Planning Board (the Board) was received from the applicant’s representative requesting the Board to defer making a decision on the application for a period of two months so as to allow time for him to address the departmental comments and submit further information to substantiate the application.

135.            After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of submission of the further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 33**

Any Other Business

136.            There being no other business, the meeting was closed at 5:20 p.m..