

## **TOWN PLANNING BOARD**

### **Minutes of 418th Meeting of the Rural and New Town Planning Committee held at 2:30 p.m. on 28.5.2010**

#### **Present**

Director of Planning  
Mrs. Ava S.Y. Ng

Chairperson

Mr. Walter K.L. Chan

Vice-chairman

Mr. B.W. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Dr. C.P. Lau

Dr. W.K. Lo

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Chief Traffic Engineer/New Territories East,  
Transport Department  
Mr. Ambrose S.Y. Cheong

Assistant Director (Environmental Assessment),  
Environmental Protection Department  
Mr. C.W. Tse

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**

Professor Paul K.S. Lam

Dr. James C. W. Lau

Ms. Anita W.T. Ma

Assistant Director (2), Home Affairs Department  
Mr. Andrew 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 417th RNTPC Meeting held on 7.5.2010

[Open Meeting]

1. The Secretary reported that amendments to the draft minutes of the 417th RNTPC meeting held on 7.5.2010 proposed by Mr. Simon K.M. Yu, the Assistant Director/New Territories, Lands Department, were received. Mr. Yu suggested to amend paragraph 16 on page 13 of the draft minutes in relation to s.12A Application No. Y/NE-LYT/10 by adding “from the planning perspective” to the third last sentence and “only” to the last sentence to read as “Mr. Simon Yu further said that replacement of existing domestic building by NTEH was allowed under the “AGR” zone from the planning perspective as explained earlier by DPO/STN. However, under the lease, the application site was restricted for agricultural purpose and was subject to MOT for ‘dwelling, kitchen and shade’. The lot owner, would only be allowed to rebuild the structures as specified under the MOT.”.

2. The Committee agreed to the proposed amendments and confirmed the minutes of the 417th RNTPC meeting held on 7.5.2010 subject to the incorporation of the amendments.

**Agenda Item 2**

Matters Arising

[Open Meeting]

(i) New Town Planning Appeals Received

(a) Town Planning Appeal No. 8 of 2010

Temporary Outdoor Mini-Motorcycle Ground with Ancillary Barbecue Area  
for a Period of 3 Years in “Agriculture” Zone

Lots 1811 (Part), 1812 (Part), 1813, 1814 (Part),

1815 s.A to s.D & s.E to s.J (Part) in D.D. 117

and Adjoining Government Land

Wong Nai Tun Tsuen, Yuen Long

(Application No. A/YL-TT/248)

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3. The Secretary reported that a letter dated 20.5.2010 from the Appeal Board Panel (Town Planning) (ABP) enclosing a Notice of Appeal in relation to planning application No. A/YL-TT/248 was received. The appeal was against the decision of the Town Planning Board (TPB) on 12.3.2010 to reject on review an application for a temporary outdoor mini-motorcycle ground with ancillary barbecue area at the application site in the “Agriculture” (“AGR”) zone on the approved Tai Tong Outline Zoning Plan No. S/YL-TT/14. The application was rejected by the TPB for the following reasons :

- (a) adverse noise impact and nuisance from the development were envisaged. The applicants failed to demonstrate in the submission that the development would not generate adverse environmental impact on the surrounding areas; and
- (b) no technical assessments including drainage and fire service installations proposals had been submitted to demonstrate that the applied use would have no adverse impacts on the vicinity on the drainage and fire safety.

(b) Town Planning Appeal No. 9 of 2010  
Proposed House  
(New Territories Exempted House (NTEH) – Small House)  
in “Green Belt” zone,  
Government Land in D.D. 20,  
Ta Tit Yan Village, Tai Po  
(Application No. A/TP/436)

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4. The Secretary reported that an appeal was received by the ABP on 7.4.2010 against the decision of the TPB on 22.1.2010 to reject on review an application for ‘NTEH – Small House’ in the “Green Belt” (“GB”) zone on the approved Tai Po Outline Zoning Plan No. S/TP/21. The ABP confirmed that the appeal had been accepted on 20.5.2010. The application was rejected by the TPB for the following reasons :

- (a) the proposed NTEH (Small House) was not in line with the planning

intention of the “GB” zoning for the area which was to define the limits of urban development areas by natural physical features so as to contain urban sprawl and to provide passive recreational outlets. There was a general presumption against development within this zone. There was no planning justification in the submission for a departure from the planning intention;

- (b) the proposed development did not comply with the Interim Criteria for Assessing Planning Applications for NTEH/Small Houses Development in the New Territories as the proposed site for the NTEH/Small House development fell within the upper indirect Water Gathering Grounds (WGGs) and the small house, if built, would not be able to be connected to existing or planned sewerage system in the area. The applicant could not demonstrate that the proposed development located within the WGGs would not cause adverse impact on the water quality in the area; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would encourage urban sprawl into the tranquil valley and result in adverse traffic impact and a general degradation of the natural environment in the area.

5. The Secretary said that the hearing dates of the above appeals were yet to be fixed. The Secretariat would act on behalf of the TPB on all matters relating to the proceedings of the TPAB in the usual manner.

(ii) Appeal Statistics

6. The Secretary reported that as at 28.5.2010, a total of 27 cases were yet to be heard by the ABP. Details of the appeal statistics were as follows :

Allowed	:	24
Dismissed	:	111
Abandoned/Withdrawn/Invalid	:	137
Yet to be Heard	:	27

Decision Outstanding	:	3
Total	:	302

**Sai Kung and Islands District**

**Agenda Item 3**

**Section 12A Application**

[Open Meeting (Presentation and Question Sessions only)]

Y/SK-TMT/4            Application for Amendment to the Approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan No. S/SK-TMT/4 from “Green Belt” to “Village Type Development” zone, Lots 12 (Part), 13 RP, 13 S.B (Part), 29 S.A (Part), 29 RP (Part), 34 (Part), 35, 36, 37 (Part), 38 S.A (Part), 38 RP, 39 (Part) in D.D. 261, Lots 354 (Part), 361 RP, 361 S.A, 361 S.B, 361 S.C, 362 S.A, 362 S.B and 362 RP (Part) in D.D. 267 and Adjoining Government Land, Ping Tun Village, Sai Kung (RNTPC Paper No. Y/SK-TMT/4)

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**Presentation and Question Sessions**

7.            Mr. Ivan M.K. Chung, District Planning Officer/Sai Kung and Islands (DPO/SKIs), and Mr. Charles C.F. Yum, Senior Town Planner/Sai Kung and Islands (STP/SKIs) of the Planning Department (PlanD), and the following applicant and his representatives were invited to the meeting at this point :

- Mr. Cheung Wah Man        ] the applicant
- Mr. Ted Chan                ] the applicant’s representative
- Mr. Daniel Wei              ] the applicant’s representative

8.            The Chairperson extended a welcome and briefly explained the hearing procedures. The Committee noted that the applicant had tabled two official letters dated 3.6.1971 (ref: DOS/ED/23) and 29.4.1971 (ref: DOS/ED/28) from the former Sai Kung District Office (DO) for consideration by the Committee at the meeting. The letter dated 3.6.1971 was about the reply from the former Sai Kung DO to the Village Representatives

(VRs) of nine villages in Sai Kung advising that the Government would endeavour to protect the interest of the local villagers who were directly or indirectly affected by the construction of the High Island Reservoir, and the letter dated 29.4.1971 was about the former Sai Kung DO's reply to the Sai Kung Rural Committee on the resumption and compensation issues in relation to the High Island Reservoir project. The Chairperson then invited the representatives of PlanD to brief Members on the background of the application. With the aid of a Powerpoint presentation, Mr. Charles C.F. Yum did so as detailed in the Paper and made the following main points :

- (a) the applicant proposed to rezone the application site from "Green Belt" ("GB") to "Village Type Development" ("V") zone on the approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No. S/SK-TMT/4 to facilitate the development of 12 Small Houses/New Territories Exempted Houses together with a sewage collection tank and a sewage treatment plant (STP). The justifications put forward by the applicant were detailed in paragraph 2 of the Paper;
- (b) the planning history of the subject site was highlighted in paragraph 4 of the Paper;
- (c) the departmental comments were detailed in paragraph 9 of the Paper and were summarized as follows :
  - the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD) advised that the 10-year Small House Demand forecast for Ping Tun Village was 19; there was no active application for Small House grants on the lots within the application site; and the indigenous villager status of the lot owners could not be confirmed at the present stage. DLO/SK also pointed out that as the owner of Lot No. 35 in D.D. 261 within the site was a limited company, any application for Small House grant at this Lot would not be accepted. The village 'environs' ('VE') provided in the applicant's submission did not match with DLO/SK's record;

- the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) advised that the only existing external road link in the subject area was Tai Mong Tsai Road, which was a narrow single two-lane carriageway with limited capacity and there was no improvement proposal for this stretch of road at the present moment; the proposed rezoning from “GB” to “V” would set an undesirable precedent for similar applications in the vicinity and the cumulative traffic impact of all these similar applications could be substantial and would severely overload the limited road network. Hence, AC for T/NT did not support the application;
- the Director of Environmental Protection (DEP) advised that the application site was wholly inside the Water Supplies Department’s Lower Indirect Water Gathering Ground (LIWGG) and water quality issue would be the key environmental concern. The DEP requested the applicant to demonstrate that the proposed STP was technically feasible to meet the required standard stipulated in the Water Pollution Control Ordinance (WPCO) as well as the financial viability of providing the STP to the existing/future house. The DEP also considered that the applicant failed to provide detailed information to demonstrate the feasibility of the proposed STP;
- the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) advised that the application site was within an area with no sewerage nor stormwater connection available;
- the Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD) objected to the application as the proposed development would likely increase the pollution risks to the water quality within the WGGs;
- the Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application from both tree preservation and agricultural point of view and commented that the application site



had a high potential for agricultural rehabilitation and part of the site was well vegetated;

- the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape planning perspective on the grounds that there was no survey information of the existing vegetation on the application site for consideration of the impact of the proposed development on the landscape aspect; there would be no planning control on preservation of existing mature trees within the site or on the landscape provision for the development within the “V” zone if the rezoning was approved; and the approval would set an undesirable precedent in converting “GB” to “V” zones in Sai Kung District. From the urban design perspective, the CTP/UD&L also had reservation as the approval would result in a substantial change in the rural and green setting of the site and adverse visual impact on the surrounding areas; and
  - the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) advised that the proposed development was located below steep natural hillside, and met the alert criteria requiring a Natural Terrain Hazard Study (NTHS). Hence, a Geotechnical Planning Review Report (GPRR) in support of the application was required;
- (d) 15 public comments were received during the statutory publication period. Two public comments were submitted by the Kadoorie Farm & Botanical Garden Corporation and the World Wide Fund and the other 13 commenters comprised mainly members of the public. All of them objected to the application on environmental, ecological and infrastructural grounds; and
- (e) the Planning Department (PlanD)’s views – the PlanD did not support the application based on the assessment set out in paragraph 11 of the Paper.

PlanD's assessments were summarized below :

- the application site was located in close proximity to the wooded hill slopes (fung shui wood), stream course (situated on a steep hillside) and the Sai Kung West Country Park areas. It comprised abandoned fields and had a high potential for agricultural rehabilitation. There were also native trees/shrubs on the site. The current "GB" zoning for the site was considered appropriate. There were no strong planning justifications for the proposed rezoning. Both the DAFC and the CTP/UD&L had reservation on or objection to the proposed rezoning from tree preservation, agricultural and landscape points of view. As the site was located below steep natural hillside, the H(GEO), CEDD also commented that a GPRR was required for the application;
- the application site fell within the LIWGG and there was no sewerage nor stormwater connection available in the vicinity at present. The applicant failed to demonstrate that the proposed STP was technically feasible and would not pollute the LIWGG. The proposed development of 12 Small Houses would likely increase the pollution risks to the water quality of the WGGs. In this regard, the CE/Dev(2), WSD objected to the application as it encroached upon the LIWGG and was in close vicinity to a stream course. The DEP also considered that the application failed to provide detailed information regarding the feasibility of the proposed STP;
- there was currently no proper vehicular access to the application site and the only existing external road link to the site, Tai Mong Tsai Road, was a narrow single two-lane carriageway with limited capacity. The proposed rezoning from "GB" to "V" would inevitably have adverse impacts on the existing road network of the area. There was no improvement proposal for this stretch of Tai Mong Tsai Road at present. Hence, the AC for T/NT, TD did not support the application on traffic grounds;

- as advised by the DLO/SK, the 10-year Small House demand forecast for Ping Tun Village was 19. Though the land provided within the “V” zone of Ping Tun Village could not meet the future demand for Small House development, sufficient land had been reserved in other “V” zones on the Tai Mong Tsai and Tsam Chuk Wan OZP to meet the estimated Small House demand of Ping Tun Village and other recognized villages. According to the latest estimate by PlanD, about 19ha of land or equivalent to 750 Small House sites were available within the “V” zones on the OZP. Therefore, the land available could fully meet the Small House demand of Ping Tun Village as well as other recognized villages in the Tai Mong Tsai and Tsam Chuk Wan areas; and
  
- approval of the application would set an undesirable precedent for similar applications within “GB” zone. The cumulative effect of approving such applications would lead to adverse impact on the natural landscape, environment, traffic and infrastructure provision in the area. All the public comments received objected to the application.

9. The Chairperson then invited the applicant’s representative to elaborate on the application. Mr. Ted Chan made the following main points :

- (a) it was admitted that the proposed rezoning, including the environmental protection measures, would not be able to meet all the standards and requirements set out by the Government departments, and it would be difficult for the applicant to address all the public objections to the application;
  
- (b) however, the 12 proposed Small Houses were all located within the ‘VE’ of Ping Tun Village, which would be allowed under the Small House Policy. The Committee was requested to give due consideration to the difficulties facing the Ping Tun villagers in building Small Houses in the existing “V”

zone which was elongated in shape and part of it was covered by slopes and vegetation. The area available for Small House development was limited;

- (c) the applicants for 12 proposed Small Houses under application had included villagers who were unable to obtain Small House approvals from the Government for more than 20 years. These long outstanding Small House applications were confirmed by the VR of Ping Tun Village;
- (d) on the WSD's concern, notwithstanding the applicant's endeavour to address the WSD's concern, the applicant could, by no means, be able to meet the WSD's requirements. The WSD objected to the applicant's proposals on the grounds of the possible leakage of the pipes for discharge to be made outside the LIWGG and the concern on the management of the proposed drainage proposal. The attitude of the Government departments on the current application was in stark contrast with the Government's position in 1971 when the former Sai Kung DO was consulting the villagers of Sai Kung about the construction of the High Island Reservoir. At that time, the Government had committed to protect the local villagers whose interests were directly or indirectly affected by the project. The villagers of Sai Kung, including those of the Ping Tun Village, had cooperated with the Government in various road, water works and land resumption projects in the Sai Kung area; and
- (e) over the years, the villagers of Ping Tun Village left the Village to earn their living overseas or in the urban area, but these villagers still wished to build their home in their own village. PlanD had commented that there was adequate land in other "V" zones on the Tai Mong Tsai and Tsam Chuk Wan OZP where the Ping Tun villagers could build their Small Houses. However, it should be noted that under the existing Small House Policy, villagers could only build Small Houses in another recognized village if there was no objection from the villagers. The present application was just a reasonable request to build their home in their own village. The Committee was urged to consider whether there was adequate land in the existing "V" zone for Ping Tun Village; whether the

Ping Tun villagers could actually build Small Houses in other “V” zones in the Sai Kung area; and whether the village development in the application site would result in adverse environmental impacts on the surrounding environment. The Committee was also invited to note that upon the advice of the applicant’s environmental consultant, it would be possible to meet the requirements of the WSD and the environmental protection standards by increasing the capacity of the septic tank to be provided in the Ping Tun Village.

10. Mr. Cheung Man Wah, the VR of Ping Tun Village made the following points :
  - (a) the area of land designated for village development area differed from one village to another, and there was no information how the “V” zones were drawn up. Whilst other villages were successful to seek an extension of their village development area, the request from the Ping Tun Village had been repeatedly rejected by the Government departments. It was unfair to the Ping Tun villagers. The current rezoning application should deserve the same treatment as the other successful cases; and
  - (b) the Government should keep their promise not to jeopardize the villagers’ interest as committed in the letter from the former Sai Kung DO.

11. Mr. Ted Chan supplemented that there were existing villages in the rural areas which were within WGGs and used septic tanks for village development, they included Ta Tit Yan, Kwun Yam Shan Village and Pun Shan Chau Village in Sha Tin and the villages in Lam Tsuen Valley, Tai Po. There was no reason not to allow the use of septic tanks for the proposed Small Houses in Ping Tun Village.

12. A Member noted that the applicant had not provided a GPRR as required by CEDD as the proposed development was located below steep natural hillside. This Member raised concern on the safety issue and enquired the reason for not providing the GPRR. In response, Mr. Ted Chan acknowledged that the CEDD’s requirement was very stringent. From his experience, there was no significant level difference in the application site and the 12 proposed Small Houses would be built with respect to the topography of the site to avoid

slope cutting and to ensure that the slopes would not be disturbed. Should the rezoning application be approved by the Committee, the GPRR would be provided at the detailed design stage. However, owing to the limited financial ability of the villagers, it would not be possible for them to provide the GPRR at this stage.

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

13. In response to a Member's enquiry on the proposed STP, Mr. Ivan Chung referred Members to the comments of the DEP in paragraph 9.1.3 of the Paper and said that as advised by the DEP, the application site was wholly within the LIWGGs and the water quality issue would be the key environmental concern. In this regard, the applicant failed to demonstrate that the proposed STP was technically feasible to meet the required standard stipulated in the WPCO.

14. In response to a Member's enquiry, Mr. Ivan Chung informed Members that the application site was zoned "GB" since the first draft Tai Mong Tsai and Tsam Chuk Wan OZP No. S/SK-TMT/1 was published in the Gazette on 26.9.2003. As detailed in paragraph 5 of the Paper, there was no previous rezoning request or application for amendment to the OZP covering the application site. In response to the Chairperson's enquiry, Mr. Ivan Chung informed Members that the site was zoned "Conservation Area" ("CA") on the draft Tai Mong Tsai and Tsam Chuk Wan Development Permission Area (DPA) Plan No. DPA/SK-TMT/1 which was published in the Gazette on 29.9.2000. Subsequently, the site was rezoned to "GB" on the first draft OZP, taking into account the conditions of the site and its surrounding area.

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

15. In response to a Member's enquiry on the outstanding Small House demand of the Ping Tun Village, Mr. Cheung Man Wah said that the 12 proposed Small Houses under the rezoning application were all eligible indigenous villagers of Ping Tun Village, and these 12 Small Houses were the anticipated Small House demand for the coming 20 years for the Village. The concerned villagers did not prefer to build their Small Houses outside Ping Tun Village. In response to the Chairperson's enquiry, Mr. Cheung informed Members that the total population of Ping Tun Village was about 60 and there was about 20 villagers

currently living in the “V” zone. Mr. Cheung also pointed out that the area in front of the existing village houses in the “V” zone comprised sloping land, which was considered to be less suitable for Small House development when compared to the sites under the rezoning application.

16. In response to the Chairperson’s enquiry, Mr. Ivan Chung informed Members that under the “GB” zone on the OZP which covered the application site, the applicant could submit Small House application under section 16 of the Town Planning Ordinance in accordance with the criteria stated in the ‘Town Planning Board Guidelines for Development within Green Belt Zone’ (the TPB Guidelines No. 10).

17. In response to a Member’s enquiry on the population change for the Ping Tun Village in the past and coming 10 years, Mr. Ivan Chung informed Members that while such information was not in hand, the site inspection conducted by PlanD revealed that most of the houses in the “V” zone were vacated and according to the information from DLO/SK, the forecast of the 10-year Small House Demand for Ping Tun Village was 19 and there was no active application for Small House grant currently being processed by DLO/SK. In response, Mr. Cheung Wah Man advised that the last application for Small House development was sought 10 years ago and no Small House grant had been given by DLO/SK. There were 12 outstanding Small House demand in Ping Tun Village and that was why the applicants submitted the current rezoning application. In response to the Chairperson’s enquiry, Mr. Simon K.M. Yu said that he had no further information to supplement the comments of DLO/SK as stated in paragraph 9.1.1 of the Paper.

18. In response to a Member’s enquiry, Mr. Ivan Chung informed Members that while the application site was zoned “GB” on the OZP, it also fell within the village ‘environs’ area for the Ping Tun Village.

19. In response to the Chairperson’s enquiry, Mr. Cheung Man Wah advised that it was not possible for the villagers of Ping Tun Village to build Small Houses in the “V” zones of other recognized villages as they did not own land in these “V” zones and they needed to seek consent from the villages in these recognized villages. It was noted that some recognized villages had objected to the building of Small Houses by villagers coming from other villages.

20. As the applicant and his representatives had no further comment to make and Members had no further question to raise, the Chairperson informed them that the hearing procedures for the application had been completed and the Committee would further deliberate on the application in their absence and inform the applicant of the Committee's decision in due course. The Chairperson thanked the representatives of the applicant and PlanD for attending the meeting. They all left the meeting at this point.

[Mr. Ambrose S.Y. Cheong left the meeting temporarily at this point.]

### Deliberation Session

21. A Member noted that the application site was outside the "V" zone but was still within the 'VE' of the Ping Tun Village. This Member noted that there might be difficulties for the villagers of Ping Tun Village to build Small Houses in other "V" zones for the reasons given by the VR. This Member enquired if it was possible for the applicant to seek Small House development in the "GB" zone. In response, the Secretary informed the Members that the current application was to rezone the application site from "GB" to "V" for the development of 12 proposed Small Houses. If the rezoning application was agreed by the Committee, the applicant could apply for the Small House grant direct from DLO/SK. There was no need for the applicant to revert back to the TPB to resolve the issues on the LIWGG and the geotechnical safety as discussed. The Secretary continued to point out that as the site was zoned "GB" on the OZP, the applicant could apply for Small House development under section 16 of the Town Planning Ordinance. In considering the section 16 application, the TPB would take into account the relevant TPB Guidelines and consider the application on individual merits. For the current case, if a section 16 application was submitted, the applicant would have to address the respective concerns of the Government departments, in particular, the concerns from the DEP and the CE/Dev(2), WSD on the LIWGG and water quality, and the concern of the H(GEO), CEDD on the geotechnical safety of the site in the section 16 planning application.

[Mr. Ambrose S.Y. Cheong returned to join the meeting at this point.]

22. A Member enquired should the application site be rezoned to "V", whether more



Small Houses could actually be implemented on the application site as opposed to the 12 Small Houses currently indicated in the applicant's submission. In response, the Secretary informed Members that if the rezoning application was approved by the Committee, the application site would be rezoned from "GB" to "V" and the approving authority would then rest with the DLO/SK for the Small House grant. The TPB would not have the planning control on the future Small House development on the site as the applicant was not required to revert back to the TPB with technical assessments to address the outstanding technical concerns as discussed. In this regard, Members noted that as shown in the Master Layout Plan in Drawing Z-1 of the Paper, it was apparent that the application site could accommodate more than 12 Small Houses. If the site was rezoned to "V", the TPB could not exercise proper planning control on the site in case more than 12 Small Houses were to be developed. In response to a Member's enquiry, the Chairperson said that it was the existing practice for the TPB to assess the "V" zone boundary by taking into account the Small House demand of the respective recognized villages on a 10-year basis and to adjust the "V" zone boundary as necessary and as required.

23. Regarding the comment of the applicant's planning consultant that there were existing villages in the WGGs using septic tanks, the Chairperson informed Members that in certain villages like Lam Tsuen, Tai Po, there was planned provision of public sewers for connection to the Small House development.

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

24. A Member said that whilst it was acknowledged that the applicant might envisage difficulty in finding sites to build small houses for the villagers of Ping Tung Village, the applicant had failed to address the concerns of the respective Government departments and could not demonstrate that the proposed rezoning would not result in any adverse impacts on the surrounding environment. This Member also pointed out that there was discrepancy in the information provided by the applicant as against the DLO/SK's record in relation to the outstanding application for Small House grant and the forecast of the Small House demand for the Village. In view of the fact that the applicant could alternatively seek small house development in the "GB" zone under the s.16 planning application mechanism, there was no reason to support the rezoning application. Other Members agreed.

[Dr. C.P. Lau left the meeting temporarily at this point.]

25. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper. Mr. Ambrose Cheong referred Members to the position of TD as stated in paragraph 9.1.2 of the Paper and suggested replacing “adverse impact on the road network of the area” by “cumulative traffic impact on the road network” in rejection reason (d). Members agreed to TD’s suggestion and accordingly considered that the rejection reasons, together with TD’s suggested revision, were appropriate.

26. After further deliberation, the Committee decided not to agree to the application for amendment and the reasons were :

- (a) the Site was located in close proximity to the wooded hill slopes (fung shui wood), stream course (situated on a steep hillside) and the Sai Kung West Country Park areas. The current zoning of “Green Belt” (“GB”) on the Outline Zoning Plan was considered an appropriate zoning which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There were no strong planning justifications for the proposed rezoning of the Site from “GB” to “Village Type Development” (“V”);
- (b) the Site was within the Lower Indirect Water Gathering Ground (LIWGG) and there was no sewerage nor stormwater connection available in the vicinity. The applicant had failed to demonstrate that the proposed sewage treatment plant was technically feasible and the proposed development would likely increase the pollution risks to the water quality within the existing LIWGG;
- (c) the applicant had failed to demonstrate that the proposed development was geotechnically feasible;
- (d) there was no proper vehicular access to Ping Tun Village. The only existing external road link to the proposed site was Tai Mong Tsai Road,

which was a narrow single two-lane carriageway with limited capacity. The proposed rezoning from “GB” to “V” would set an undesirable precedent for similar applications in the vicinity. The cumulative traffic impact of these similar applicants would have adverse impact on the limited road network of Tai Mong Tsai Road;

- (e) sufficient land had been reserved in the “V” zones on the Tai Mong Tsai and Tsam Chuk Wan OZP to meet the Small House demand of Ping Tun Village and other recognized villages; and
- (f) approval of the application would set an undesirable precedent for similar applications. The cumulative effect of approving such applications would result in encroachment of the “GB” zone by development and cause adverse landscape, traffic and infrastructural impacts in the area.

#### **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 and Ms. Lisa L.S. Cheng, Senior Town Planners/Shan Tin, Tai Po and North (STPs/STN), were invited to the meeting at this point.]

**Agenda Item 4**

**Section 12A Application**

[Open Meeting]

Y/TP/13

Application for Amendment to the Draft Ting Kok Outline Zoning Plan No. S/NE-TK/16 and Approved Tai Po Outline Zoning Plan No. S/TP/21 from “Green Belt”, “Conservation Area”, “Village Type Development” and “Government, Institution or Community” to “Green Belt”, “Government, Institution or Community”, “Government, Institution or Community(1)” (“G/IC(1)”), “Village Type Development”, “Other Specified Uses” annotated “Comprehensive Development and Conservation Enhancement Area” (“OU(CDCEA)”) and an area shown as “Road” and Proposed New Sets of Notes for the Proposed “OU(CDCEA)” and “G/IC(1)” zones, Various Lots in D.D. 23 and D.D. 26 and Adjoining Government Land, Shuen Wan, Tai Po  
(RNTPC Paper No. Y/TP/13)

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27. The Secretary reported that the application was submitted by Wheelock Properties Ltd. and Hong Kong Christian Service. Dr. James C.W. Lau had declared an interest in this item as he had current business dealings with CM Wong & Associates Ltd., who was a member of the consultancy team for the applicants. The Committee noted that Dr. Lau had tendered apologies for not attending the meeting.

28. The Committee noted that on 5.5.2010 and 10.5.2010, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for two months in order to allow time for preparing further information in support of the application.

29. 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 three 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 the submission of the further information, and no

further deferment would be granted unless under very special circumstances.

## **Agenda Item 5**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/FSS/192                      Proposed House (New Territories Exempted House – Small House)  
in “Green Belt” and “Village Type Development” zones,  
Lot 1549 in D.D. 92, Tsung Pak Long Village, Sheung Shui  
(RNTPC Paper No. A/FSS/192)

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### **Presentation and Question Sessions**

30.            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) and the Chief Town Planner, Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application from a tree preservation point of view as some existing trees might be affected by the proposed development;
- (d) one public comment indicating no comment on the application was received during the statutory publication period. The District Officer (North) advised that two village representatives (VRs) of Tsung Pak Long Village and a concerned North District Council (NDC) member supported the application and another two VRs of Tsung Pak Long Village and another concerned NDC member had no comment on the application; and

[Dr. C.P. Lau returned to join the meeting at this point.]

- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application based on the assessments set out in paragraph 12 of the Paper. 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’ (‘VE’) of Tsung Pak Long Village, and there was a general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of the same village. Besides, as part of the application site (about 33.3%) fell within the “V” zone of Tsung Pak Long Village, sympathetic consideration should be given to the application. The application generally complied with the relevant Town Planning Board Guideline No. 10 on development within “Green Belt” (“GB”) zone in that the application site was in close proximity to the village proper of Tsung Pak Long Village and there was insufficient land to meet the Small House demand. The proposed Small House would have a septic tank for sewage disposal and significant adverse sewage impact was not anticipated. Moreover, the application site was accessible via a vehicular access directly connecting to Fanling Highway. To address the concerns of DAFC and CTP/UD&L, the applicant would be advised to adjust the footprint of the proposed Small House in order to avoid felling of existing trees within the site.

31. The Chairperson noted there was a significant increase in the Small House demand for the next 10 years for Tsung Pak Long Village from 73 Small Houses in 2003 to 706 Small Houses in 2010 and asked if there was any reasons for such increase. In response, Ms. Doris S.Y, Ting informed Members that she had further checked with the District Lands Officer/North (DLO/N) on the Small House demand. DLO/N advised that as confirmed by the VRs of Tsung Pak Long Village, the substantial increase was due to the increased number of registration of Small House entitlement from eligible villagers who were currently residing overseas. Such increase was attributable to the expectation of these overseas villagers that there would be more development opportunities in the northern New Territories upon the implementation of New Development Areas.

32. In response to the Chairperson's enquiry on whether the agreed practice of further clarification with the VR had been made in respect of this substantial increase in Small House demand, Mr. Simon K.M. Yu said that should there be substantial difference in the forecast of Small House demand as advised by the VRs, the respective DLOs would enquire/ask the VRs to explain such increase but the LandsD would not verify the forecast nor require the VRs to provide any proof to support their claims.

#### Deliberation Session

33. Two Members raised concerns on the validity of the forecast of Small House demand for Tsung Pak Long Village. In response, Ms. Doris S.Y. Ting said that under the existing practice, PlanD would consult the respective DLO to double check the validity of the Small House demand forecast when significant increase from the previous forecast was found. For the current application, PlanD also questioned about the significant increase in the Small House demand over the years and had sought confirmation with DLO/N. She also supplemented that according to DLO/N's record, the increase had been in the order of 73 Small Houses in 2003, 230 in 2004, 300 in 2007, 360 in 2009, 650 in 2010 and 706 as at to date.

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

34. 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 28.5.2014, 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 :

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

- (a) the submission and implementation of drainage proposal 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 landscaping proposal to the satisfaction of the Director of Planning or of the TPB.

35. 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 the formal application referred by Lands Department;
- (c) to note the comments of the Director of Agriculture, Fisheries and Conservation to adjust the footprint of the proposed Small House to avoid encroachment into the “Green Belt” zone and to minimize the impact on the existing trees;
- (d) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that:
  - (i) the application site was located within flood pumping gathering ground; and
  - (ii) for provision of water supply to the proposed 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;



- (e) to note the comments of the Project Manager (New Territories North and West), Civil Engineering and Development Department that the environmental impacts arising from the proposed road improvement scheme and their mitigation measures were being evaluated under the “North East New Territories New Development Areas Planning and Engineering Study – Investigation”; and
- (f) to note that the permission was only given to the development under application. If provision of an access road was required for the proposed developments, the applicant should ensure that such access road (including any necessary filling/excavation of land) would comply with the provisions of the relevant statutory plan and obtain planning permission from the TPB where required before carrying out the road works.

### **General**

[Dr. W.K. Lo returned to join the meeting at this point.]

36. Members had a general discussion on the existing practice of providing Small House forecast by the District Lands Office, LandsD (DLOs, LandsD) to seek confirmation with the Village Representatives (VRs) on the validity of the number of potential Small House entitlement.

37. Members considered the existing practice of DLO to seek confirmation but no verification with the VRs on cases with significant increase in the forecast of Small House demand; and that the VRs were not required to provide any proof to support their claim nor even a name list were not satisfactory as it might be subject to speculation and prone to an abuse of the system.

38. As the forecast of Small House demand in the next 10 years was an important parameter in the preparation of land use zones on the Outline Zoning Plans and for consideration of New Territories Exempted House (Small House) application, it would be

important to devise a reliable method to provide the forecast. In this regard, the Committee requested the Administration to consider ways to improve the existing practice of seeking confirmation of the forecast of Small House demand with the respective VRs, and to consider ways to verify the figures provided by the VRs.

## **Agenda Item 6**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTN/137      Proposed House (New Territories Exempted House – Small House)  
and Landfilling (from 5.8 mPD to 6.8 mPD)  
in “Agriculture” zone,  
Lot 1358 S.C in D.D.95, Ho Sheung Heung, Kwu Tung North,  
Sheung Shui  
(RNTPC Paper No. A/NE-KTN/137)

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### **Presentation and Question Sessions**

39.            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) and landfilling (from 5.8 mPD to 6.8 mPD);
- (c) departmental comments – the comments from the concerned Government departments were :
  - the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had reservation on the application. Although he had no comment on the proposed landfilling and noted that the landfilling was to facilitate a proposed Small House development on the application site, AC for T/NT considered that the

proposed Small House should be confined within the “Village Type Development” (“V”) zone as far as possible. Although traffic associated with the proposed developments was not expected to be significant, such development, if permitted, would set an undesirable precedent for similar applications to follow in the future. The resulting cumulative adverse traffic impact could be substantial;

- the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advised that according to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP), the northern part of the application site was within the area of an unauthorized landfilling works at Ho Sheung Heung. He understood that the unauthorized landfilling works at Ho Sheung Heung were subject to on-going enforcement and reinstatement actions. Should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the site to ensure that it would not cause adverse drainage impact to the adjacent area; and the site was in an area where no public sewerage connection was available; and
  - the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from an agricultural development point of view as the application site had a high potential for agricultural rehabilitation and there were active agricultural activities in the vicinity of the site; and the DAFC did not support the proposed landfilling for Small House;
- (d) five public comments were received during the statutory publication period and the main points were summarized as follows :

Supporting views :

- one comment from a member of the general public supported the application. Another public comment stated that the application site was located in low-lying area subject to flooding and considered that

the advanced filling of land by soil and cement was to form a stable platform for future building works and that no construction material was used for filling of the site;

Opposing views :

- three public comments were either against or had concerns on the application. One of these public comments objected to the application on ground that the site was involved in an enforcement case of illegal dumping of construction materials and considered that the application was for regularization of illegal dumping at the site. Similar illegal dumping of construction materials would take place should the application be approved;
  - the second comment was from a villager of Ho Sheung Heung who raised concerns on the fact that the applicant had carried out illegal landfilling which destroyed the agricultural land and fish pond of the area; the application was for regularization of the illegal dumping of construction waste at the site; and complaints had been lodged to the Development Bureau and concerned Government departments. The Board should not make decision of the application until investigation results were available from the bureau and Government departments; and
  - the third comment was from the Designing Hong Kong Limited who stated that the application site was zoned “Agriculture” (“AGR”); and the area lacked a plan for a sustainable village layout. Approval of the application would set a disastrous precedent for “destroy first, develop later” attitude among land owners;
- (e) the District Officer (North) had no comment on the application; and
- (f) the Planning Department (PlanD)’s views – the PlanD had no objection to the application based on the assessments set out in paragraph 12 of the Paper. PlanD’s assessments of the application were summarized below :

- there was insufficient land in the “V” zone of Ho Sheung Heung Village to meet the demand of Small Houses (about 8.88 ha or equivalent to about 355 Small House sites);
- 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’ (‘VE’) of Ho Sheung Heung Village, and there was a general shortage of land in meeting the demand for Small House development in the “V” zone of the same village. In this regard, sympathetic consideration could be given to the current application;
- the application site was close to the boundary of the “V” zone and the proposed Small House development was not incompatible with the adjacent village setting and surrounding environment of a rural character;
- although the AC for T/NT had reservation on traffic ground, it should be noted that the application site was located immediately outside the “V” zone of Ho Sheung Heung Village and fell entirely within the ‘VE’. Moreover, the site was accessible by a local track leading from Ho Sheung Heung Road, it was anticipated that adverse traffic impact generated by the proposed Small House would be minimal;
- it was anticipated that the proposed Small House development and the associated landfilling would not have adverse impacts on the surrounding area and the proposed site level of 6.8 mPD after land filling was generally at the same level with the area to the west and south within the “V” and “G/IC” zones respectively. Concerned departments had no adverse comments on the application; and

- regarding the public comments on illegal dumping, it was noted that the northern part of the application site (about 62.4 m<sup>2</sup>) was within the area of 7,790 m<sup>2</sup> which was subject to the enforcement action undertaken by the Planning Authority (PA) and the appropriate courses of enforcement actions were being taken by the PA.

40. A Member enquired as to whether the Secretary of Development (SDEV) had set down in her decision regarding the serving of the Reinstatement Notice (RN) to a site in Ho Sheung Heung (including the northern part of the application site) a time limit for completing the reinstatement works. In response, Ms. Doris S.Y. Ting said that the SDEV handed down the decision in February 2010 confirming the PA's decision to serve the RN, and required the RN recipients, including the registered land owner of the application site, to undertake the required reinstatement works by April 2010.

41. The same Member said that as there was a concern from the commenters that the approval of the application would encourage the "destroy first, develop later" approach, whether PlanD would recommend to the Committee to grant approval to the application only after the reinstatement requirement on the site under the RN was fully fulfilled by the applicant. In response, Mr. W.K. Hui said that under the Town Planning Ordinance (TPO), it was the Town Planning Board (TPB) to consider and decide on the planning applications, whilst the Planning Authority was empowered to undertake planning enforcement and prosecution work. They were two different functions clearly defined under the TPO. In assessing the subject application, PlanD had examined whether the proposed Small House had complied with the 'Interim Criteria'. It was considered that the application had generally complied with the 'Interim Criteria' in that both the application site and the footprint of the proposed Small House fell within the 'VE' of Ho Sheung Heung Village and there was a general shortage of land in meeting the demand of Small House development in the "V" zone of the same village. It was also considered that although enforcement work was still being undertaken by the PA against the application site, this should not deter the TPB from considering the application under the provision of the TPO.

42. In response to a Member's enquiry as to when the subject unauthorized land filling activities took place, Mr. Hui referred to the aerial photographs and informed Members that as shown in the aerial photograph taken in November 2008, there was no sign

of unauthorized land filling on the application site and the area to its north. As shown in the aerial photo taken in July 2009, landfilling activities on the application site and in the area to its north were detected.

43. The Chairperson informed Members that the Committee had all along based on the 'Interim Criteria' to assess Small House application. As the subject application had met the 'Interim Criteria', it could be approved with conditions to address the technical requirements of the concerned Government departments. Referring Members to Plan A-2 of the Paper, the Secretary supplemented that four previous planning applications for Small House development had been approved with conditions by the Committee on land to the north of the site in February, July and September 2008 respectively. All the planning permissions were granted before the unauthorized landfilling activities took place on these sites in 2009. In response to a Member's enquiry, Mr. W.K. Hui supplemented that the previous approvals for these four applications did not include landfilling. Recently, the applicants of the four sites had submitted planning applications for landfilling, and they would be considered by the Committee at the next meeting.

44. In response to a Member's enquiry as to whether the proposed landfilling of 1m under the current application was to prevent flooding on the site, Mr. Hui said that it was common for Small Houses in the rural area to be built on a slightly raised platform for circulation. In response to the Chairperson's enquiry about the site levels in the area, Mr. Hui referred Members to Plan A-2 of the Paper and said that the existing level of land in the "V" zone to the west of the application site was about 8.0mPD, whereas the existing levels of the application site was about 5.8mPD, the area to its north where the four Small Houses were approved was about 5.9mPD, and the land within the "G/IC" zone to its south was about 6.7mPD. It was noted that the application site and the adjoining Small Houses sites were situated on land with lower site levels than the adjoining area under the "V" and "G/IC" zones. Upon the proposed landfilling of 1m, the proposed site level of 6.8mPD at the application site would be similar to the site level of its surrounding areas.

45. A Member asked whether the southern part of the application site was also subject to enforcement action. Mr. Hui said that according to the information provided by the Central Enforcement and Prosecution Section (CEPS), PlanD, the area in the southern part of the application site had been subject to another enforcement action by the PA.

Nonetheless, as it only involved a relatively small area, the PA had not requested a reinstatement of the site upon the discontinuation of the unauthorized development by the relevant RN recipient. It was understood that the PA would issue a Compliance Notice for the southern part of the site.

46. A Member referred to Plan A-3 of the Paper and said that the application site seemed to be covered by grass. This Member asked whether the reinstatement works under the RN had been fulfilled. In response, Mr. Hui said that only part of the application site in the northern portion was subject to the RN, and only part of it was currently covered by grass. The majority of the application site was still bare land covered by gravel and mud, and thus the reinstatement requirement for the site had not been fully complied with.

47. A Member asked about the practice for the Committee in considering planning applications with on-going enforcement action and the reinstatement order not yet complied with. In response, Mr. W.K. Hui said that in general, the Committee would base on planning considerations in considering planning applications. The information concerning the enforcement action being undertaken by the PA would serve as background information. As mentioned earlier, such information should not deter the Committee from considering the application. Furthermore, as a planning application, which involved enforcement work being undertaken by the PA, could be submitted by a person who was not responsible for the unauthorized development, it would not be appropriate to penalize an applicant of the planning application for action which was not taken by him.

48. A Member asked about the reinstatement works that were required to be undertaken under the RNs. In response, Mr. W.K. Hui said that the RN had set out the detailed requirements on reinstatement works. For cases involving unauthorized landfilling like the subject site, the RNs could require the removal of unauthorized land fills and reinstatement of the site by covering it by grass cover. For cases involving unauthorized pond filling, the RNs might require the dredging of unauthorized fills and reinstating the ponds, depending on the circumstances.

#### Deliberation Session

49. A Member considered that as the application had fully met the 'Interim Criteria',



it could be supported. However, as the reinstatement requirements set out in the RN had not yet been fully complied with by the applicant who was also the recipient of the RN, this Member suggested to stipulate an advisory clause to advise the applicant to comply with the RN.

50. Another Member enquired the background of the four approved cases to the north of the application site and whether there was any change in the planning circumstances in which the Committee should adopt different assessment criteria in considering the current application. With the aid of the aerial photo taken in November 2008, Ms. Doris S.Y. Ting informed Members that when the four Small House applications to the north of the site were approved by the Committee in February, July and September 2008, the respective sites were still either abandoned land or covered with grass. The unauthorized landfilling in the area was undertaken after the planning permissions for the four Small House applications were granted. The Chairperson supplemented that all these four applications were approved by the Committee on the considerations that the applications had complied with the 'Interim Criteria'.

51. In response to a Member's enquiry, the Chairperson said that in 2008, planning permission had only been granted to the four proposed Small Houses to the north of the application site, landfilling on these sites, however, had not been granted by the Committee and would require planning permission by the TPB. The applications for landfilling to facilitate the Small House development at these four sites had been scheduled for submission to the Committee at the next meeting.

52. Another Member considered that the Committee should consider the current application under the provisions of the TPO and in accordance with the relevant TPB Guidelines, leaving the enforcement action to be carried out by the PA.

53. In response to the Chairperson's request, the Secretary said that the so called "Clean Record Test" was previously considered by the TPB thoroughly. The Secretary said that back in 2004 and 2005 when the TPB considered the TPB Guidelines on "Other Specified Uses" annotated "Rural Use" ("OU(RU)") zone, some green groups had raised concern on possible deliberate degradation of the rural area as a tactic for seeking the TPB's agreement for rezoning land to "OU(RU)". A "Clean Record Test", which was a record

indicating no alleged violations or infringement of planning regulations, land lease conditions or environmental regulations for all sites owned by the applicant over the past few years, was proposed by a green group. The idea was for the TPB not to approve a planning application submitted by an applicant who did not have a clean record. The Secretary said that the TPB had a thorough discussion on the proposal and noted that there were practical issues in carrying out such test. Unauthorized dumping or landfilling activities causing damage to the land might be undertaken without the consent or knowledge of the owner. It would also not be difficult to get round the test by having someone with a “clean record” to submit the application. The Secretary said that legal advice had also been sought on the proposed “Clean Record Test”. According to the advice of the Department of Justice, the track record of an applicant or an application site should not be taken as a relevant consideration in assessing a planning application. Planning considerations were those relating to the use and development of land, and whether such considerations were relevant in any given case depended on circumstances. To address the concern of the green groups, the TPB Guidelines on “OU(RU)” zone promulgated in 2005 stated clearly that any unauthorized development or environmental degradation in hope of getting agreement from the TPB to rezone land for “OU(RU)” zone would be subject to enforcement by the relevant authorities, including the PA, and the TPB would not give sympathetic consideration when assessing the rezoning application.

54. A Member said that given the above thorough discussion and the legal advice previously sought, it was considered that it was not necessary to peg the current application with the on-going enforcement action as there involved two separate statutory procedures. Notwithstanding, given the fact that the land owner subject to the enforcement action was also the applicant for the current application and the fact that the requirements in the RN had not been fully satisfied at the point of consideration of the case, it would still be worthy to clearly convey the message to the applicant about the Members’ serious concern on the unauthorized development on the application site and the applicant’s apparent failure to comply with the reinstatement of the sites, as a matter of fact, even if planning permission for the application would be granted by the Committee. Otherwise, the TPB/ Committee would be seen as condoning the unauthorized development on the application site. It was therefore not unreasonable for the Committee to consider the inclusion of an advisory clause in the planning permission requiring the applicant to fully comply with the RN issued by the PA to categorically reflect the Committee’s concern in this respect. In this connection, the TPB

had categorically decided that the “Clean Record Test” would not be adopted in considering planning applications. A Member opined that despite the legal advice suggesting that the previous track record of the applicant was not a material planning consideration in assessing the application, the public aspiration for a clean record should not be taken too lightly. Other Members agreed.

55. Mr. C.W. Tse was of the opinion that it might be appropriate for the Committee to adopt a prudent approach and considered whether it would be worthy to withhold granting permission to the application until it was ensured that the RN was duly complied with by the applicant.

56. In response, the Secretary drew the Members’ attention to the fact that there were indeed many applications for open storage and workshop uses in rural areas which were also subject to on-going enforcement/prosecution actions. The Committee had to consider and decide on these applications under the TPO and it had not been a practice of the TPB to withhold the consideration of these applications because of the concurrent enforcement actions being undertaken.

57. The Chairperson said that it was not uncommon for the TPB/Committee to consider applications which were the subject of concurrent enforcement actions or cases whose planning permission had been revoked. Members should therefore consider whether singling out landfilling case for different treatment was reasonable, and whether it was justified for the Committee to impose conditions requesting the applicant to comply with the reinstatement requirement at the site before commencing the construction works for the Small House, bearing in mind that the TPB/Committee also dealt with cases where unauthorized works were identified by the Buildings Department.

[Mr. B.W. Chan left the meeting at this point.]

58. Members had a lengthy discussion as to whether or not the consideration of the the planning permission should be subject to the full compliance with the RN by the applicant. A Member considered that while the application was approvable as it complied with the ‘Interim Criteria’ adopted by the TPB for assessing Small House application, it was appropriate to include an advisory clause in the planning permission requiring the

applicant/RN recipient to comply with the RN. This was because the Committee could discharge its statutory duty in making a decision on the application and at the same time convey a clear message to the applicant that the Committee had not agreed to the applicant's unauthorized activity on the application site.

59. On the advisory clause suggested by a Member, two other Members considered that the inclusion of an advisory clause was not necessary as it would not have any binding effect on the applicant. These two Members opined that the Committee should consider the current application under the provisions of the TPO and in accordance with the relevant TPB Guidelines, leaving the enforcement action to be carried out by the PA.

60. A Member raised concern on the fact that the applicant had not submitted any drainage proposal or plan for the proposed Small House. This Member considered that it was important for the applicant to take into account the conditions of the adjoining area in formulating the drainage proposal at the application site and to ensure that no flood hazard would be resulted to the surrounding area and the site formation level might need to be adjusted in relation to the drainage plan. In the absence of such information, this Member suggested to defer the consideration of the application until the applicant submitted information on the drainage proposal for consideration by the Committee. In response, the Secretary said that the application was in fact consisted of two parts, landfilling and Small House application. For the former, the applicant should submit technical assessment to justify the proposed landfilling work. In this regard, it was noted that the expert department, Drainage Services Department had no objection to the application subject to the submission and implementation of a drainage proposal to his satisfaction. The Chairperson also said that the Committee could consider by stipulating relevant approval conditions in the planning approval to require the implementation of the drainage proposal by the applicant before construction of the Small House took place at the site. After some discussion, the Members consider that it would be appropriate to amend approval condition (a) as stated in paragraph 13.2(a) of the Paper by stipulating that the applicant should take into account the site formation levels of the adjoining land in formulating the drainage proposal for the application site and that the proposed drainage facilities as agreed by the relevant Government departments should be duly implemented before the construction works of the proposed Small House could be commenced on site. Members agreed

61. Given the substantial background and documents involved in relation to the “Clean Record Test”, Members considered that it would be beneficial for all the TPB Members to be briefed on the issue with full reference to all the related documents. Members considered that it would greatly assist their consideration of other similar planning applications.

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

62. The Chairperson concluded that the Committee was very concerned about the community’s criticism of the so-called the “destroy first and build later” approach. However, the planning application and enforcement were under two separate statutory procedures. Under the TPO, the TPB/Committee had the statutory duties to decide on planning applications. In considering the applications, if the TPB/Committee considered that all the relevant TPB Guidelines and pertinent planning criteria had been met, it would be appropriate for the TPB/Committee to grant planning permission in a consistent manner with other similar applications notwithstanding that there was on-going enforcement actions. As the applicant for the current application was also the recipient of the RN of an enforcement case, he had the responsibility to fulfill the requirements under the RN. As the subject application had fully met the ‘Interim Criteria’, it could be approved with appropriate conditions to address the technical requirements of the concerned Government departments. Members also agreed that to address the possible flooding impact of the proposed landfilling, the applicant should be required to submit and implement the drainage proposal as agreed by the relevant Government departments before the construction works of the Small House could be commenced at the site. Therefore the Members agreed to amend approval condition (a) as stated in paragraph 13.2(a) of the Paper. As regards the Members’ view on the “Clean Record Test”, the Secretary suggested, and Members agreed, that the TPB be briefed on the relevant background information on the “Clean Record Test” and the previous discussion of the TPB on the subject matter.

63. Members then went through the approval conditions and agreed to amend approval condition (a) to properly reflect the concern of the Committee on the unauthorized development within the application site and to avoid the “destroy first, developer later” approach.

64. 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 28.5.2014, 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 proposal to the satisfaction of the Director of Drainage Services or of the TPB before commencement of the construction works for the proposed Small House at the site;
- (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 landscaping proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note that prior planning permission should have been obtained before commencement of development;
- (b) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of the formal application referred by Lands Department;
- (c) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department that:
  - (i) the land status of the access track leading from a public road to the application site should be checked with the lands authority; and
  - (ii) the management and maintenance responsibilities of the access track should be clarified with the relevant lands and maintenance

authorities;

- (d) to note the comments of the Chief Engineer/Development(2), Water Supplies Department's (WSD) that:
  - (i) for provision of water supply to the proposed development, the applicant might need to extend their 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;
  - (ii) water mains in the vicinity of the application site could not provide the standard fire fighting flow; and
  - (iii) the application site was located within the flood pumping gathering ground;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the application site was in an area where no public sewerage connection was available; and
- (f) to note that the permission was only given to the development under application. If provision of an access road was required for the proposed developments, the applicant should ensure that such access road (including any necessary filling/excavation of land) would comply with the provisions of the relevant statutory plan and obtain planning permission from the TPB where required before carrying out the road works.

[Mr. Walter Chan left the meeting temporarily and Mr. Rock C.N. Chen left the meeting at this point.]

**Agenda Item 7**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTS/290      Proposed Utility Installation for Private Project  
(Transformer Room, Switch Room, Refuse Chamber,  
Telecommunications and Broadcasting Equipment Room, Meter  
Room, Toilet and Gas Governor Room)  
in “Village Type Development” zone,  
Lots 516 S.D, 526 S.G (Part), 526 S.H (Part), 527 S.A and  
528 S.D in D.D. 92, Kam Tsin Village, Sheung Shui  
(RNTPC Paper No. A/NE-KTS/290)

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66.      The Secretary reported that Dr. James C.W. Lau had declared an interest in this item as he had current business dealings with Ben Yeung & Associates Ltd., who was the consultant for the applicant. The Committee noted that Dr. Lau had tendered apologies for not attending the meeting.

**Presentation and Question Sessions**

67.      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;

[Professor Edwin H.W. Chan left the meeting temporarily at this point.]

(b)      the proposed utility installation for private project (transformer room, switch room, refuse chamber, telecommunications and broadcasting equipment (TBE) room, meter room, toilet and gas governor room);

(c)      departmental comments – concerned Government departments had no objection to or adverse comments on the application;

(d)      one public comment was received during the statutory publication period



indicating 'no comment' on the application;

- (e) the District Officer (North) advised that the Indigenous Inhabitants' Representative (IIR) of Kam Tsin supported the application while the Chairman of Sheung Shui District Rural Committee, concerned North District Council member, another IIR and the Residents' Representative of Kam Tsin had no comment on the application; and
- (f) the Planning Department (PlanD)'s views – the PlanD had no objection to the application based on the assessments set out in paragraph 10 of the Paper. The proposed utility installation was required for the provision of power supply, telephone lines, gas and refuse collection facilities to the 24 small houses in the vicinity of the application site. The proposed utility installation was small in scale and was considered not incompatible with the village character of the surrounding areas. The application was similar to the previously approved applications (No. A/NE-KTS/272 and A/NE-KTS/284) submitted by the same applicant. The applicant had amended the sizes of the utility facilities to facilitate the application for Certificate of Exemption under Buildings Ordinance (Application to the New Territories) Ordinance (Chapter 121). There was no material change in planning circumstances or change in the land use of the surrounding areas since the previous planning approval was granted. When compared the proposed scheme under the current application with the previously approved scheme under Application No. A/NE-KTS/284, however, there were increases in the total GFA from 119.06m<sup>2</sup> to 166.28m<sup>2</sup> and in the maximum building height from 8.55m to 8.70m, it was unlikely that the proposed utility installation in the current application would have adverse impacts on the surrounding areas. Concerned departments had no objection to or no adverse comment on the application. Relevant approval conditions had been recommended in paragraph 11.2 of the Paper to address the technical requirements of relevant departments.

68. Members had no question on the application.

Deliberation Session

69. 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 28.5.2014, 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 design and implementation of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB;
- (b) the design and provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (c) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to apply to the District Lands Officer/North, Lands Department for a Short Term Waiver for the proposed development;
- (b) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:
  - (i) formal submission for approval and consent under the Buildings Ordinance was required;
  - (ii) in case the application site was not abutting specified street of not less than 4.5m, the development intensity should be determined by the Building Authority; and
  - (iii) the emergency vehicular access provision under Building (Planning)

Regulations (B(P)R) 41(D) should also be provided;

- (c) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department (HyD) that the CLP Power Hong Kong Limited (CLPP) should seek HyD's comments on the utility layout plan for utility connection to existing network underneath public roads to be carried out by the CLPP, and the minimum cover requirements as per HyD's Technical Circular No. 3/90 on 'Minimum cover Requirement for Underground Services' should be complied with;
- (d) to note the comments of the Director of Fire Services that:
  - (i) the emergency vehicular access arrangement should comply with Part VI of the Code of Practice for Means for 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 the general building plans;
- (e) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that:
  - (i) the application site was located within WSD's flooding pumping gathering ground;
  - (ii) all spoils arising from site formation works should be contained and protected to prevent all nearby watercourses from being polluted or silted up;
  - (iii) the applicant should comply with the latest effluent discharge requirements stipulated in the Water Pollution Control Ordinance;
  - (iv) storage and discharge of toxicant, flammable or toxic solvents,

petroleum oil or tar or any other toxic substances were prohibited;

- (v) U-channels should be constructed to circumscribe the refuse chamber to intercept all foul water. The foul water should be led to a manhole, and be discharged through a pipe system to the development's foul drainage system. Grating, desilting and fine screening facilities should be provided to prevent ingress of solids;
  - (vi) the foundation of the refuse chamber should be designed to be waterproofing; and
  - (vii) for provision of water supply to the proposed 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 be responsible for the construction, operation and maintenance of the inside services within private lots to WSD's standards;
- (f) to note the comments of the Director-General of Telecommunications that the provision of access facilities for telecommunications and broadcasting services in every building should observe the requirement as stipulated in the B(P)R;
- (g) to note the comments of the Director of Electrical and Mechanical Services that there was a high pressure underground town gas transmission pipelines near Lot 527 in D.D. 92. The project proponent/consultant should maintain liaison/coordination with the Hong Kong and China Gas Company Limited in respect of the existing gas pipes routes/gas installations in the vicinity of the proposed work area and the minimum set back distance away from the gas pipelines during the design and construction stages of development;
- (h) to note the comments of the Chief Town Planner/Urban Design &

Landscape, Planning Department that landscaping/planting design should be introduced for the whole site (including the proposed small houses and the utility installation) so as to reduce the solidness of the overall development; and

- (i) 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) would comply with the provisions of the relevant statutory plan and obtain planning permission from the TPB where required before carrying out the road works.

[Mr. Timothy K.W. Ma return to joined the meeting at this point.]

### **Agenda Item 8**

#### **Section 16 Application**

[Open Meeting]

A/NE-LYT/422      Temporary Warehouses (excluding Dangerous Goods Godown)  
for a Period of 3 Years  
in “Residential (Group C)” and “Agriculture” zones,  
Lots 755, 835 S.B ss.1, 836, 837, 838 RP, 841 RP, 842 RP, 844 RP  
and 854 in D.D. 83, No. 31A Ma Liu Shui San Tsuen, Fanling  
(RNTPC Paper No. A/NE-LYT/422)

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71.            The Committee noted that on 26.5.2010, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for one month in order to allow time for preparation of swept path diagram in response to the comments of the Transport Department.

72.            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 one month was allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 9**

**Section 16 Application**

[Open Meeting]

A/NE-LYT/423      Temporary Warehouses (excluding Dangerous Goods Godown)  
for a Period of 3 Years  
in “Residential (Group C)” and “Agriculture” zones,  
Lots 756, 792 RP, 803 RP, 838 S.A, 839, 840, 841 S.A, 842 S.A, 843  
and 844 S.A in D.D. 83, No. 31A Ma Liu Shui San Tsuen, Fanling  
(RNTPC Paper No. A/NE-LYT/423)

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73.            The Committee noted that on 26.5.2010, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for one month in order to allow time for preparation of swept path diagram in response to the comments of the Transport Department.

74.            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 one month was allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 10**

**Section 16 Application**

[Open Meeting]

A/NE-MUP/62            Proposed 2 Houses  
(New Territories Exempted Houses – Small Houses)  
in “Agriculture” zone,  
Lots 326 SB ss.4 and 326 SB ss.5 in D.D. 37,  
Man Uk Pin, Sha Tau Kok  
(RNTPC Paper No. A/NE-MUP/62)

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75.            The Committee noted that on 10.5.2010, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for two weeks in order to have more time to resolve the comments of the concerned Government departments.

76.            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 weeks were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Mr. C.W. Tse left the meeting temporarily at this point.]

**Agenda Item 11**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/701            Proposed Shop and Services (Bank) in “Industrial” zone,  
Workshop R, LG/F, Valiant Industrial Centre,  
Nos. 2-12 Au Pui Wan Street, Fo Tan, Sha Tin  
(RNTPC Paper No. A/ST/701)

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Presentation and Question Sessions

77. 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 shop and services (bank);
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) one public comment agreeing to the application was received during the statutory publication period and the District Officer (Sha Tin) had no adverse comment on the application; and

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

- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. The proposed bank under application was considered not incompatible with the adjoining units on the street level of the same industrial building which were occupied by mixed industrial and commercial uses. In view of the nature of its operation, it was anticipated that the proposed bank would not have adverse environmental, hygienic and infrastructural impacts on the surrounding areas. All the Government departments consulted had no adverse comments or objection to the application. The proposed bank was also in line with the Town Planning Board Guidelines for Use/Development within "Industrial" Zone' (the TPB Guidelines No. 25D) in that it would have direct discharge to street and would not adversely affect the traffic conditions in the local road network. A temporary approval of three years was recommended in order to allow the Committee to monitor the supply and demand of industrial floor space in the area to ensure that the long term planning intention of industrial use



for the subject premises would not be jeopardized.

78. Members had no question on the application.

#### Deliberation Session

79. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 28.5.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission of fire safety measures within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.11.2010;
- (b) the implementation of fire safety measures within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.2.2011; and
- (c) if any of the above planning conditions (a) or (b) 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.

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

- (a) a temporary approval of three years was given in order to allow the Committee to monitor the supply and demand of industrial floor space in the area to ensure that the long term planning intention of industrial use for the subject premises would not be jeopardized;
- (b) to apply to the District Lands Officer/Shia Tin, Lands Department for a temporary waiver to permit the applied use;
- (c) to note the comments of the Chief Building Surveyor/New Territories East (1) & Licensing Unit, Buildings Department (BD) that the proposed

use should comply with the requirements under the Buildings Ordinance. For instance, the premises should be separated from other workshops/premises by compartment walls having a fire resisting period of not less than two hours, and adequate means of escape and access for fire fighting and rescue should be provided. Moreover, the common corridor for means of escape should not be affected. The proposed use was subject to the control of the Fire Safety (Commercial Premises) Ordinance. Detailed comments would be given upon formal submission of building (alteration and addition) plans to the BD;

- (d) to note the comments of the Director of Fire Services that the bank should be completely separated from the industrial occupancies by suitable fire resisting construction and fire service installations were provided to the satisfaction of the Fire Services Department. Detailed fire service requirements would be formulated upon receipt of formal submission of the general building plans; and
- (e) to refer to the ‘Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises’, which was promulgated by the TPB in September 2007, for the information on the steps required to be followed in order to comply with the approval condition on the provision of fire service installations.

## **Agenda Item 12**

### **Section 16 Application**

[Open Meeting]

A/ST/702                      Shop and Services (Fast Food Shop) in “Industrial” zone,  
Workshop 10 (Part), Level 1, Wah Yiu Industrial Centre,  
30-32 Au Pui Wan Street, Fo Tan, Sha Tin  
(RNTPC Paper No. A/ST/702)

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81.                      The Committee noted that on 10.5.2010, the applicant wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the

application for two months as more time was required to process matters related to fire safety measures in respect of the subject premises to address the comments of the Director of Fire Services.

82. 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 the submission of the further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 13**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KLH/402 Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Government Land in D.D. 9, Tai Wo Village, Kau Lung Hang, Tai Po  
(RNTPC Paper No. A/NE-KLH/402)

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

83. Ms. Lisa L.S. Cheng, 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);

[Mr. C.W. Tse returned to join the meeting at this point.]

- (c) departmental comments – the comments from the concerned Government departments were :

[Mr. Walter K.L. Chan returned to join the meeting at this point. Dr. W.K. Lo left the meeting temporarily at this point.]

- the Director of Agriculture, Fisheries and Conservation (DAFC) advised that the proposed development was at a distance from the Kau Lung Hang Ecologically Important Stream (EIS) and the applicant confirmed to connect the proposed Small House to the public sewerage system for disposal. It was unlikely that the proposed Small House would pollute the concerned EIS. He had reservation on the application from tree preservation point of view as there are about 10 numbers of trees which were common species and in fair condition along the access road on the eastern side of the application site. It appeared that the proposed Small House would be in direct conflict with these trees and felling of these trees was required;
- according to the Chief Engineer/Project Management, Drainage Services Department, the proposed house would be able to be connected to the planned sewerage system in the area as public sewerage connection point would be provided in the vicinity of the site under the latest sewerage scheme at Tai Wo. As such, concerned Government departments, including the Director of Environmental Protection and the Chief Engineer/Development (2), Water Supplies Department, had no objection to the application; and
- the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had some reservation from the landscape planning point of view as the proposed Small House would likely affect the existing screening trees along the local access abutting the application site and no proper tree survey information was included in the submission to demonstrate that it would not have adverse impact on the existing trees. The CTP/UD&L recommended that a landscaping condition be stipulated in the

planning permission if the application was approved;

- (d) five public comments against the application were received during the statutory publication period. Three public comments in standard letters were from the Tai Wo villagers objecting to the application on the grounds that the proposed Small House would have adverse environmental, sewerage, water quality, air ventilation and fung shui impacts on the surrounding areas. They also raised concern about the planning of the area and the possible adverse impacts on mature trees, agricultural fields and ecologically important stream nearby. Another public comment from the Village Representatives of Kau Lung Hang Village pointed out that the application site was not suitable for Small House development. The last public comment was an objection raised by the son of the holder of the Government Land Licence (GLL) No. TPT 4668 as the application site would encroach upon the Licence area;
- (e) the District Officer (Tai Po) (DO/TP) had no adverse comment on the application. He advised that the proposed Small House under application was within close proximity to the road maintained under his local public works programme. There should be sufficient room of at least 2m between the road verge and the proposed house for the ease of access of pedestrian; and

[Dr. W.K. Lo returned to join the meeting at this point.]

- (f) the Planning Department (PlanD)'s views – the PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. PlanD's assessments of the application were summarized below :
  - the proposed Small House generally met the 'Interim Criteria for Consideration of Application for New Territories Exempted House(NTEH)/Small House in the New Territories' ('Interim Criteria') in that the proposed Small House footprint was entirely within the village 'environs' of Tai Wo Village, and there was a

general shortage of land in meeting the demand for Small House development in the “V” zone of the village concerned. The proposed Small House was compatible with the surrounding land uses which were mainly village houses, temporary domestic structures and abandoned agricultural fields. According to DAFC, the site had low potential for agricultural rehabilitation and agricultural life in the vicinity of the site was inactive. The site was within the upper indirect water gathering ground (WGG) and located about 40m from the Kau Lung Hang EIS;

- to address the concern of the DAFC and the CTP/UD&L, an approval condition requiring the applicant to submit and implement a tree preservation and replanting proposal was recommended. Other relevant Government departments had no objection to the application and relevant conditions would be stipulated to address the technical concerns of the departments; and
  
- as regards the objections raised by the public that the site was not suitable for Small House development and that it would have adverse impacts on the area, relevant Government departments consulted had no objection to the application, relevant approval conditions had been recommended to address the technical concern. To address the local objection from the son of the holder of the adjacent GLL No. TPT 4668, the applicant had revised the block plan to avoid any encroachment on the Licence lot. Given that the proposed Small House could meet the Interim Criteria and was considered not incompatible with the surrounding rural environment and village setting, sympathetic consideration could be given.

84. Members had no question on the application.

#### Deliberation Session

85. 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 28.5.2014, 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 tree preservation and replanting proposal to the satisfaction of the Director of Planning or of the TPB;
- (b) the provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB;
- (c) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the TPB;
- (d) the provision of protective measures to ensure no pollution or siltation occur to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the TPB; and
- (e) the provision of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) the actual construction of the proposed Small House should only begin after the completion of the public sewerage network;
- (b) adequate space should be provided for the proposed Small House to be connected to the public sewerage network;
- (c) the applicant was required to register, before execution of Small House grant document, a relevant Deed of Grant of Easement annexed with a plan of construction, operation and maintenance of sewage pipes and connection points on the lots concerned in the Land Registry against all affected lots;

- (d) the applicant should make proper sewer connection from the proposed Small House to the public sewerage at his own cost;
- (e) the applicant should follow the Practice Note for Authorized Persons and Registered Structural Engineers No. 295, 'Protection of natural streams/ rivers from adverse impacts arising from construction works' issued by the Buildings Department, in particular Appendix B, 'Guidelines on Developing Precautionary Measures during the Construction Stage';
- (f) to note the comments of the District Lands Officer/Tai Po that the applicant should obtain prior written consent and agreement from his office before commencing work as the proposed sewerage connection to future public sewerage system might affect Government land;
- (g) to note the comments of the Chief Engineer/Project Management, Drainage Services Department (DSD) that the applicant should continue to pay attention on the latest development of the proposed sewerage scheme. DSD would also keep all the relevant Village Representatives informed of the latest progress;
- (h) to note the comments of the Chief Engineer/Mainland North, DSD that the Director of Environmental Protection should be consulted on the water quality impact if the sewage was discharged to septic tank and soakaway system;
- (i) to note of the comments of the Chief Engineer/Development (2), Water Supplies Department in paragraph 4 of Appendix V of the Paper;
- (j) 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 the Lands Department;
- (k) to note the comments of the Assistant Commissioner for Transport/New



Territories, Transport Department that the applicant should check with the Lands Authority on the land status of the village track / footpath leading to the site from a public road and clarify with the relevant lands and maintenance authorities on the management and maintenance responsibilities of the unnamed access road and the village track / footpath accordingly; and

- (l) 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) would comply with the provisions of the relevant statutory plan and obtain planning permission from the TPB where required before carrying out the road works.

#### **Agenda Item 14**

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

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KLH/403      Proposed House (New Territories Exempted House – Small House)  
in “Village Type Development” and “Agriculture” zones,  
Lot 658 S.B in D.D. 9, Yuen Leng Village, Kau Lung Hang, Tai Po  
(RNTPC Paper No. A/NE-KLH/403)

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

87.      Ms. Lisa L.S. Cheng, 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);

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

- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) one public comment was received during the statutory publication period from Designing Hong Kong Limited objecting to the application as most of the site fell within the “Agriculture” (“AGR”) zone and there was a lack of sustainable village layout plan for the area. The District Officer/Tai Po had no comment on the application; and
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. PlanD’s assessments of the application were summarized below :
  - the application generally met the ‘Interim Criteria for Consideration of Application for New Territories Exempted House(NTEH)/Small House in the New Territories’ in that the proposed Small House was entirely within the village ‘environs’ of Yuen Leng, Kau Lung Hang Lo Wai and Kau Lung Hang San Wai, and there was a general shortage of land in meeting the demand for Small House development in the “Village Type Development” zone of the village concerned. The site fell within the upper indirect water gathering ground;
  - the site was subject of three previous applications for Small House development. The last previous application No. A/NE-KLH/304 was approved with conditions by the Committee on 21.2.2003;
  - the application site had been vacant and surrounded by other Small Houses and the Director of Agriculture, Fisheries and Conservation had no comment on the application. According to the Chief Engineer/Project Management, Drainage Services Department, public sewerage connection points would be provided in the resumption area for the North District Sewerage Stage 2 Phase 1 project and the proposed Small House would be able to be connected to the planned

sewerage system in the area. As such, both the Director of Environmental Protection and the Chief Engineer/Development (2), Water Supplies Department had no objection to the application. The proposed Small House was generally compatible with the surrounding rural environment. As regards the public comment from Designing Hong Kong Limited, concerned Government departments had no objection or no adverse comment on the application.

88. Members had no question on the application.

#### Deliberation Session

89. 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 28.5.2014, 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 landscape proposal to the satisfaction of the Director of Planning or of the TPB;
- (b) the provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB;
- (c) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the TPB;
- (d) the provision of protective measures to ensure no pollution or siltation occur to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the TPB; and
- (e) the provision of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the

TPB.

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

- (a) the actual construction of the proposed Small House should only begin after the completion of the public sewerage network;
- (b) adequate space should be provided for the proposed Small House to be connected to the public sewerage network;
- (c) the applicant should make proper sewer connection from the proposed Small House to the public sewerage at his own cost;
- (d) the applicant should continue to pay attention on the latest development of the proposed sewerage scheme. The Drainage Services Department would also keep all the relevant Village Representatives informed of the latest progress;
- (e) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) that for provision of water supply to the proposed 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;
- (f) to note the comments of the CE/Dev(2), WSD that water mains in the vicinity of the site could not provide the standard fire fighting flow;
- (g) 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 the Lands Department; and

- (h) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department that the applicant should check with the Lands Authority on the land status of the village road leading to the site from a public road and clarify with the relevant lands and maintenance authorities on the management and maintenance responsibilities of the village road accordingly.

### **Agenda Item 15**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LT/404            Proposed House (New Territories Exempted House – Small House)  
in “Village Type Development” and “Agriculture” zones,  
Lots 109 S.A and 109 S.B in D.D. 18, Tai Om Village,  
Lam Tsuen, Tai Po  
(RNTPC Paper No. A/NE-LT/404)

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

91.            Ms. Lisa L.S. Cheng, 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 point of view as major part of the application site fell within the “Agriculture” (“AGR”) zone and the site had high potential for rehabilitation of agricultural activities. The DAFC advised that should the application be approved, the applicant should be advised to follow the Buildings Department Practice Note for Authorized Persons and Registered Structural Engineers No. 295 ‘Protection of natural streams/rivers from

adverse impacts arising from construction works' issued by Buildings Department, in particular the Appendix B, 'Guidelines on Developing Precautionary Measures during the Construction Stage' in view of the fact that the proposed Small House development was located in the vicinity of the stream course;

- (d) five public comments were received from the residents of Ping Long Villa and Designing Hong Kong Limited during the statutory publication period. They objected to the application on the grounds that the proposed small house would increase the development density of the area, adversely affect the tranquil environment and the ecology of the nearby stream; and there was a lack of sustainable village layout plan for the area. The District Officer/Tai Po had no comment on the application; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper, which were summarized below :
  - the proposed Small House generally met the 'Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in the New Territories' ('Interim Criteria') in that not less than 50% of the proposed Small House footprint (i.e. 52.5%) fell within the "Village Type Development" ("V") zone and there was a general shortage of land in meeting the demand for Small House development in the "V" zone of the village concerned. Although the site was within the upper indirect water gathering ground (WGG) and was less than 30m from the nearest stream, the Chief Engineer/Project Management, Drainage Services Department advised that public sewers would be laid in the vicinity and the proposed Small House could be connected to the public sewerage system on the application site boundary. As such, both the Director of Environmental Protection and the Chief Engineer /Development (2), Water Supplies Department had no objection to the application;

- the site was the subject of the previous application No. A/NE-LT/343 for NTEH (Small House), which was rejected by both the Committee and the Board upon review in 2005 mainly for the reasons that the proposed Small House was not in line with the planning intention of the “AGR” zone and its non-compliance with the ‘Interim Criteria’ in that over 50% of the proposed Small House footprint was outside the “V” zone and majority of the application site fell outside the village ‘environs’ of a recognized village. As compared with the previous application, the applicant had included Lot 109 S.B in the current application and shifted the proposed Small House eastward so that more than 50% of the footprint of the house now fell within the “V” zone. He also proposed to plant trees and flowers in the proposed garden at Lot 109 S.A, which fell within the “AGR” zone. It was considered that the proposed Small House under the current application met the ‘Interim Criteria’ and was not incompatible with the surrounding rural environment and village setting. To address the DAFC’s concern on the potential impacts of the proposed Small House on the stream nearby, relevant approval conditions, requiring the applicant to connect foul water drainage system to the planned public sewerage system and to provide protective measures to ensure no pollution or siltation would occur to WGGs, had been recommended in paragraph 12.2 of the Paper. The applicant would also be advised to follow the Practice Note for Authorized Persons and Registered Structural Engineers No. 295 issued by the Buildings Department to protect the stream from adverse impacts arising from construction works. As regards the five public comments against the application, concerned Government departments had no comment on the application.

92. Members had no question on the application.

#### Deliberation Session

93. 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 28.5.2014, 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 landscape proposal to the satisfaction of the Director of Planning or of the TPB;
- (b) the provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB;
- (c) the provision of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (d) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the TPB; and
- (e) the provision of protective measures to ensure no pollution or siltation occur to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the TPB.

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

- (a) the actual construction of the proposed Small Houses should only begin after the completion of the public sewerage network;
- (b) adequate space should be provided for the proposed Small House to be connected to the public sewerage network;
- (c) the applicant was required to register, before execution of the Small House grant document, a relevant Deed of Grant of Easement annexed with a plan of construction, operation and maintenance of sewage pipes and connection points on the lots concerned in the Land Registry against all affected lots;



- (d) the applicant should make proper sewer connection from the proposed Small House to the public sewerage at his own cost;
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation that the Practice Note for Authorized Persons and Registered Structural Engineers No. 295, 'Protection of natural streams/rivers from adverse impacts arising from construction works' issued by the Buildings Department, in particular Appendix B, 'Guidelines on Developing Precautionary Measures during the Construction Stage' should be followed;
- (f) to note the comments of the Chief Engineer/Project Management, Drainage Services Department that the applicant should be vigilant on the latest situation of the proposed sewerage scheme, for which the Village Representatives would be kept informed by the Drainage Services Department;
- (g) 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 the Lands Department; and
- (h) to note of the comments of the Chief Engineer/Development (2), Water Supplies Department in paragraph 4 of Appendix V of the Paper.

**Agenda Item 16**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TK/302            Proposed House (New Territories Exempted House – Small House)  
in “Village Type Development” and “Agriculture” zones,  
Lot 851 S.C in D.D. 23, Po Sam Pai Village, Tai Po  
(RNTPC Paper No. A/NE-TK/302)

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Presentation and Question Sessions

95. Ms. Lisa L.S. Cheng, 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 – 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/Tai Po 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 set out in paragraph 11 of the Paper. The proposed Small House was considered compatible with the existing village setting with village houses found to the south of the application site. The proposed Small House complied with the ‘Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in the New Territories’ (‘Interim Criteria’) in that more than 50% of the footprint of the proposed Small House fell within the ‘V’ zone and there was a general shortage of land in meeting the demand for Small House development in the “V” zone of the concerned village. The proposed development was unlikely to cause adverse impacts on the surrounding area. No adverse comment from concerned Government departments and no local objection was received. Approval had been granted for Small House development at the subject site under applications No. A/NE-TK/75 and 156 since 1997. Compared with the last approved application (No. A/NE-TK/156), the current application was submitted by the same applicant and the covered area of the proposed Small House was slightly reduced from 57.6m<sup>2</sup> to 49.36m<sup>2</sup>. As there had been no change in the planning circumstances since the last approval, approval of the current application was in line with the Committee’s previous decisions.

96. Members had no question on the application.

Deliberation Session

97. 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 28.5.2014, 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 facilities to the satisfaction of the Director of Drainage Services or of the TPB;
- (b) the provision of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that there was no existing public stormwater drains available for connection in the vicinity of the site. The applicant was required to submit and implement a drainage proposal for the site to ensure that it would not cause adverse drainage impact to the adjacent area. The applicant was required to maintain such systems properly and rectify the systems if they were found to be inadequate or ineffective during operation. The applicant should also be liable for and should indemnify claims and demands arising out of damage or nuisance caused by a failure of the systems. A trunk sewer would be constructed under the “Tolo Harbour Sewerage of Unsewered Areas Stage 1 Phase 2C” project, which was

tentatively scheduled for completion in 2013. Upon completion of the public sewerage system, the applicant should be required to make proper sewerage connection for the proposed development at his own cost. As the public sewerage connection was currently not available for the site, the Director of Environmental Protection should be consulted regarding the sewage treatment/disposal aspects of the development and the provision of septic tank;

- (b) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that for the provision of water supply to the proposed 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. Water mains in the vicinity of the site could not provide the standard fire fighting flow; 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) would comply with the provisions of the relevant statutory plan and obtain planning permission from the TPB where required before carrying out the road works.

**Agenda Item 17**

**Section 16 Application**

[Open Meeting]

A/NE-TK/303                      Proposed Columbarium  
in “Government, Institution or Community” zone,  
Soka Gakkai International of Hong Kong Cultural and  
Recreational Centre, Tai Po Town Lot 127 (Part),  
33 Shan Nam Road, Tai Po  
(RNTPC Paper No. A/NE-TK/303)

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99.            The Committee noted that on 12.5.2010, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for two months in order to allow more time to address the comments raised by the Government departments on the drainage and transport aspects as well as to make response to the public comments.

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

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

**Tuen Mun and Yuen Long District**

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

**Agenda Item 18**

Section 16 Application

[Open Meeting]

A/TM/398

Columbarium in “Government, Institution or Community” zone,  
Portions of Blocks within Fat Yuen Ching Shea  
at Lots 759 (Part), 791 (Part) and 830 (Part) in D.D. 131,  
Tsing Shan Tsuen, Tuen Mun  
(RNTPC Paper No. A/TM/398)

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101. The Committee noted that on 12.5.2010, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for two months so as to allow sufficient time for preparation of further information and responses to address the departmental comments.

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

**Agenda Item 19**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-LTY Y/199      Renewal of Planning Approval for Temporary Tyre  
Repairing Workshop and Storage of Tools  
under Application No. A/TM-LTY Y/152  
for a Period of 3 Years in “Open Space” zone,  
Lot 2977 s.B RP (part) in D.D. 124 and  
Adjoining Government Land, Lam Tei, Tuen Mun  
(RNTPC Paper No. A/TM-LTY Y/199)

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**Presentation and Question Sessions**

103.            The Committee noted that replacement for page 9 of the Paper to rectify the typing errors and amendments to the approval conditions (d), (e) and (f) in paragraph 13.2 was tabled at the meeting for Members’ reference.

104.            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 renewal of planning approval for the temporary tyre repairing workshop and storage of tools under Application No. A/TM-LTY Y/152 for a period of three years;
  
- (c)    departmental comments – the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) advised that his office was unable to consider regularization of the structures erected on the application site by way of a Short Term Waiver (STW) and the occupation of the Government land in question by a Short Term Tenancy (STT) as strong local objection had been received on the grounds of traffic safety and environmental nuisance. The application was not supported from the land administration point of view;

- (d) two public comments from the village representatives (VRs) of Chung Uk Tsuen were received during the statutory publication period. The first public comment was from a VR of Chung Uk Tsuen objecting to the application on the grounds that the existing tyre repairing workshop had resulted in parking of heavy vehicles on the pedestrian walkway and ‘inner-lane’ and caused obstruction of sight-line of drivers driving out of the village; and the disposal of used tyres to the nearby refuse collection point (RCP) had made the work of cleaning and clearing RCP difficult for the cleaning workers. The second public comment was jointly lodged by three VRs of Chung Uk Tsuen who objected to the application on similar grounds as above. The villagers indicated that they would have no objection if the site was used for other purposes which would not affect their daily life;
- (e) the District Officer/Tuen Mun (DO/TM) had no comment on the application and did not receive any local comment; and
- (f) the Planning Department (PlanD)’s views – the PlanD had no objection to the application based on the assessments set out in paragraph 12 of the Paper. The application complied with the Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or development (TPB Guidelines No. 34A) in that there was no material change in the planning circumstances of the surrounding areas since the previous temporary approval granted under Application No. A/TM-LTYT/152; concerned Government departments had no adverse comment on or objection to the application; and the approval period of three years sought was not longer than the original validity of the previous temporary approval. Although the tyre repairing workshop and storage of tools were not entirely in line with the planning intention of the “O” zone, it could cater for the local demand for tyre repairing service in the vicinity. In addition, the Director of Leisure and Cultural Services advised that there was no development plan of the site at present and he had no adverse comment on



the application for a period of three years. The site was not incompatible with the adjacent developments. Given the nature and scale of business, significant environmental impacts were not anticipated. The Director of Environmental Protection (DEP) had no adverse comments and advised that there had been no environmental complaint regarding the tyre repairing workshop since 2007. The site was the subject of three previous planning approvals for the same use. All the approval conditions imposed under the previous applications had been complied with. Regarding the objection raised by the VRs of Chung Uk Tsuen, it should be noted that illegal parking was subject to Police enforcement and both the Commissioner of Police and the Assistant Commissioner for Transport/ New Territories had no adverse comments on the application. Moreover, the DEP had not received any environmental complaint since 2007 and he had no adverse comment on the application. The applicant would also be advised to properly dispose of the used tyres to address the public concerns.

105. In response to a Member's question, Ms. S.H. Lam said that there was no information in hand as to whether or not the Buildings Department (BD) had issued notice requesting the applicant to remove the unauthorized structures within the site. However, there was an existing two-storey container for storage within the site. According to BD's comments set out in paragraph 10.1.6 of the Paper, the applicant was requested to make formal submission for approval to regularize the use of containers within the site under the Buildings Ordinance.

106. Another Member asked whether the local concerns on the illegal parking of heavy vehicles on pedestrian walkway arising from the subject tyre repairing workshop could be addressed by stipulating an approval condition should the Committee decided to approve the application. In response, Ms. S.H. Lam said that such activities, which took place outside the application site, would be subject to enforcement undertaken by the Commissioner of Police. Instead of stipulating an approval condition, it was recommend to advise the applicant not to park their vehicles outside the site via an advisory clause.

107. Mr. Simon Yu referred Members to paragraph 10.1.1 of the Paper and clarified that if the application was approved by the Committee and the applicant submitted a fresh

STT/STW application for the site, the LandsD would take into account the Committee's decision in considering the STT/STW application.

[Dr. C.P. Lau and Dr. W.K. Lo left the meeting temporarily at this point.]

#### Deliberation Session

108. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 28.5.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the drainage facilities on the site should be maintained at all time during the planning approval period;
- (b) 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 28.11.2010;
- (c) in relation to (b) 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 28.2.2011;
- (d) if the above planning condition (a) 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;
- (e) 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
- (f) 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.

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

- (a) to resolve any land issues related to the development with the concerned land owner;
- (b) the vehicles waiting for tyre repairing services should not be parked outside the site;
- (c) to note the public comments regarding disposal of used tyres and ensure that used tyres were properly disposed of;
- (d) to note the comments of the District Lands Officer/Tuen Mun that strong local objection had been received when processing the concerned Short Term Waiver and Short Term Tenancy on the grounds of traffic safety and environmental nuisance to the nearby residents;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that the run-in/out should be provided by the applicant in accordance with HyD's standard for vehicular access into and out of the site. Besides, the applicant should not place tyres outside the site;
- (f) to follow the "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Director of Environmental Protection;
- (g) to note the comments of the Director of Fire Services on the requirements on formulating fire service installations proposal in Appendix III of the Paper; and

[Dr. C.P. Lau left the meeting temporarily at this point.]

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that all unauthorised structures on site, which were

liable to action under section 24 of the Buildings Ordinance (BO), should be removed. The granting of planning approval should not be construed as condoning to any structures existing on the site under the BO and the allied regulations. Action appropriate under the said Ordinance or other enactment might be taken if contravention was found. The use of containers as offices was considered as temporary buildings which were subject to control under the Building (Planning) Regulations (B(P)R) Part VII. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required. If the site did not abut on a street of not less than 4.5m wide, development intensity of the site should be determined under B(P)R 19(3) at the building plan submission stage, also, the applicant should note B(P)R 41D regarding the provision of Emergency Vehicular Access.

## **Agenda Item 20**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-LTY Y/200 Proposed House (New Territories Exempted House – Small House)  
in “Green Belt” and “Village Type Development” zones,  
Lot 836 s.E in D.D. 130, near To Yuen Wai, Tuen Mun  
(RNTPC Paper No. A/TM-LTY Y/200)

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### **Presentation and Question Sessions**

110. 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 house (New Territories Exempted House - Small House);

[Dr. C.P. Lau left the meeting temporarily at this point.]

- (c) departmental comments – the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) confirmed that the application site did not fall within any village ‘environs’ (‘VE’) and advised that the applicant was an indigenous villager of a village in Tsuen Wan and his land was resumed for a public housing development in Tuen Mun Area 52 in 1995/96. The applicant had submitted a Small House application in respect of the site. According to LandsD’s prevailing guidelines, a proposed small house site should be within or at least 50% of it was within a ‘VE’ or a “Village Type Development” (“V”) zone encircling a recognized village. As the site was not within any ‘VE’ and less than 50% of the site was within a “V” zone, it did not fulfill the criterion. DLO/TM noted that the applicant had previously obtained planning permissions in 1997 and 2002, but had already lapsed. In the event that planning permission was granted for this application, DLO/TM would take this into account when assessing the Small House application in respect of the site under these special circumstances;
  
- (d) two public comments from the Village Committee of To Yuen Wai and Designing Hong Kong Ltd. objecting to the application were received during the statutory publication period. The objection from the Village Committee of To Yuen Wai was on the grounds that the development was outside the village ‘environs’ and would seriously affect the ‘fung-shui’ of the village; and the colour and disposition of the house and pollution during the construction period would directly affect the villagers. The objection from Designing Hong Kong Ltd. was mainly on the grounds that over 80% of the site was zoned “Green Belt” (“GB”); and the area lacked a sustainable village layout which ensured the health and well being of the current and future residents and a quality urban design. The District Officer/Tuen Mun had no objection/comment on the application; and
  
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application based on the assessments set out in paragraph 13 of the Paper. According to the ‘Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in

New Territories' ('Interim Criteria'), the proposed Small House with its application site falling outside the 'VE' of any recognised villages and its footprint outside the boundary of the "V" zone would normally not be approved unless under very exceptional circumstances. Under the 'Interim Criteria', application with previous planning permission lapsed would be considered on its own merits and sympathetic consideration might be given in case of specific circumstances. In considering this application, it was noted that previous planning approvals (Applications No. A/TM-LTYT/7 and A/TM-LTYT/91) were granted to the same applicant in 1997 and 2002 respectively for Small House development at the site on sympathetic consideration that the applicant was a clearee affected by land resumption for public housing development in Tuen Mun Area 52. The fact that the applicant's land was resumed for a public housing project, and that the previous planning permissions at the subject site had been given on sympathetic consideration were exceptional circumstances warranting sympathetic consideration and justified a departure from the 'Interim Criteria' and the general assumption against development in "GB" zone as in the TPB Guideline No. 10. A small house application (No. A/TM-LTYT/196) to the immediate south of the site was approved by the Committee on 7.5.2010 on the same sympathetic consideration. There was no change in the planning circumstances since the previous approvals were granted. There was no technical problem arising from the proposed development, and no adverse comments on the application were received from concerned government departments. DLO/TM did not raise objection to the application and advised that should the application be approved, he would take into account the previous planning approvals when assessing the concerned Small House application. The proposed development was not incompatible with the surrounding uses and existing landscape environment. As regards the two public objections, given the small scale of the proposed development, significant adverse impact was not anticipated and relevant government departments had no adverse comments on the application. It should also be noted that village layouts were normally prepared for 'V' zones but not for "GB" zone which was not intended for development.

111. Members had no question on the application.

Deliberation Session

112. As the application involved a proposed vehicular access passing through land in the adjoining lots, Mr. Ambrose S.Y. Cheong suggested to include an advisory clause requesting the applicant to check the land status of the proposed access road and to clarify the management and maintenance responsibilities with the relevant lands and maintenance authorities. Members agreed to Mr. Cheong's suggestion.

113. 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 28.5.2014, 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 submission of landscape proposal and implementation of the approved landscape and tree preservation proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the Director of Fire Services that emergency vehicular access, fire hydrant and fire service installations would be required in accordance with the 'New Territories Exempted Houses - A Guide to Fire Safety Requirements';
- (b) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that the applicant should be responsible for his own access arrangement;

- (c) 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 and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to note the comments of the Director of Agriculture, Fisheries and Conservation that the extent of tree trimming should be limited to the minimum necessity and good site practice should be adopted to avoid disturbance to nearby trees during the works; and
- (e) to note the comments of the Antiquities and Monuments Office, Leisure and Cultural Services Department that as the site was located in close vicinity to the Fu Tei Ha Archaeological Site and was likely to be of archaeological potential, an archaeological investigation was required prior to the commencement of construction work. If the results demonstrate evidence of archaeological significance in the affected area, appropriate mitigation measures should be designed and implemented prior to the commencement of construction work.

[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 21**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TT/261            Proposed Temporary Retail Shop for Hardware Groceries and Design Service for Metal Structure for a Period of 3 Years in “Other Specified Uses” annotated “Rural Use” zone, Lots 734 (Part) and 735 (Part) in D.D. 117 and Adjoining Government Land, Tai Tong, Yuen Long (RNTPC Paper No. A/YL-TT/261)

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**Presentation and Question Sessions**

115.        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 temporary retail shop for hardware groceries and design service for metal structure for a period of three years;
- (c)    departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d)    two public comments were received from the village representatives of Wong Nai Tun Tsuen and the residents’ association of Shap Pat Heung district during the statutory publication period. The commenters objected to the application mainly on the grounds that large goods vehicles to and from the application site would endanger of the safety of the villagers, the proposed development would cause chaos to the traffic in the vicinity of Wong Nai Tun Tsuen and the traffic load would be beyond the capacity of the narrow village road; it would bring about inconvenience to the residents living in the vicinity of the site and the applied use was incompatible with the rural environment. The District Officer/Yuen Long had not received any local comment; and

[Dr. C.P. Lau returned to join the meeting temporarily at this point.]

(e) the Planning Department (PlanD)'s views – the PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper. PlanD's assessments of the application were summarized below :

- the application site was the subject of five previous planning applications. The last three applications for temporary warehouse for or storage of old furniture were all rejected by the Committee or the Board on review in 2004 to 2006. Although the current application was submitted by a different applicant for shop and services use, the applied use would be accommodated within two single-storey structures of 3-5m in height with a total floor area of about 382m<sup>2</sup> on a site of 471.86m<sup>2</sup>. The proposed development resembled a warehouse rather than simply a retail shop. There was no information in the submission to justify the scale of the proposed retail shop. Moreover, such massive structures were not considered compatible with the surrounding rural residential settlements in terms of scale and form;
- although the surrounding areas were intermixed with fallow/cultivated agricultural land, warehouses, workshops, open storage yards and scattered residential dwellings, all of the warehouses, workshops and open storage yards in the vicinity of the site were suspected unauthorized developments subject to enforcement action by the Planning Authority;
- the applicant argued that the proposed development was a "Shop and Services" use which was a Column 2 use in the "Other Specified Uses" annotated "Rural Use" ("OU(RU)") zone and the proposed development was a retail shop for hardware groceries with design services for metal structures to serve the need of the local community in the adjoining "AGR" zone and the "V" zones. The temporary

permission sought was to have adequate time to test the potential of the market and only two parking spaces for private car and light goods vehicle would be provided. However, the transportation of hardware including corrugated sheets, ducts and pipes would entail the use of heavy vehicles. Given the proposed development was only accessible via a local vehicular track leading from a dual single-lane carriageway next to Kung Um Road, the generation of additional traffic from the proposed development might overstrain the local access road and adversely affect the rural character. The potential impact would become even more acute should there be a substantial warehouse element involved in the development. The applicant therefore needed to provide detailed information to clarify the nature and operation of the proposed retail shop beyond doubt. Failing to do so, the proposed development would not comply with the Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone’ (TPB Guidelines No. 38);

- there was no previous approval granted for the applied use on the site and no similar application for shop and services use had been approved in the “OU(RU)” zone. Shop and services uses had already been provided and were always permitted on the ground floor of the Small Houses of the adjacent “V” zones. Given the characteristics of the surrounding land uses and there was provision for shop and services use in the adjoining “V” zones, the applicant failed to justify the applied use at the general locality of the site. Approval of the application would set an undesirable precedent for other similar uses to proliferate into the “OU(RU)” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area. There were public objections from the village representatives of Wong Nai Tun Tsuen and residents’ association of Shap Pat Heung district to the application.

116. Members had no question on the application.

### Deliberation Session

117. Members then went through the reasons for rejection as stated in paragraph 13 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 development, which was more akin to a warehouse, was considered not compatible with the surrounding rural residential settlements;
- (b) the applicant failed to demonstrate in the submission that the proposed development was a genuine shop and services use and would not overstrain the local access road and adversely affect the surrounding area; and
- (c) approval of the application would set an undesirable precedent for other similar uses to proliferate into the “Other Specified Uses” annotated “Rural Use” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

[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 22

#### Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TSW/48                      Proposed School (Tutorial School) in “Residential (Group B)” zone,  
Shop No. B11, 1/F, Kingswood Richly Plaza, No. 1 Tin Wu Road,  
Tin Shui Wai, Yuen Long  
(RNTPC Paper No. A/TSW/48)

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#### Presentation and Question Sessions

118. 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 proposed school (tutorial school);
- (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 no local comment was received by the District Officer/Yuen Long; and
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application based on the assessments set out in paragraph 12 of the Paper. The application was considered in line with the ‘Town Planning Board Guidelines for Application for Tutorial School under Section 16 of the Town Planning Ordinance’ (TPB Guidelines No. 40) in that the tutorial school was considered not incompatible with the existing commercial uses on the first floor of the 3-storey (Kingswood Plaza) it was situated. Moreover, the subject tutorial school was located at the commercial complex which was separated from the residential portion of Locwood Court and there was no common entrance with the residential blocks. Hence, creation of disturbance by the tutorial school to the residents of Locwood Court was not expected. As the tutorial school was small in scale with only 3 classrooms and a total area of 60m<sup>2</sup> accommodating 3 teachers and 51 students at maximum, it was unlikely that the use would cause any significant adverse impacts on the surrounding areas. Concerned Government departments had no objection to the application and there was no public comment received during the statutory public inspection period.

119. Members had no question on the application.

Deliberation Session

120. 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 28.5.2014, 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 condition :

- the provision of fire service installations for the tutorial school to the satisfaction of the Director of Fire Services or of the TPB.

121. 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 premises;
- (b) to resolve any land issues relating to the development with the concerned owner(s) of the application premises;
- (c) to note the comments of the Secretary of Education that he would consider issuing a certificate of provisional registration to a proposed school to be operated in buildings not designed for the purposes of a school, subject to that the proposed school premises was certified to be suitable for school use by the Planning Department and the Lands Department, and the safety certificates and notice in respect of the premises were issued by the Fire Services Department and the Buildings Department/Housing Department, indicating that the buildings were safe in structure and suitable for school purpose;
- (d) to note the comments of the Director of Fire Services that detailed fire services requirements would be formulated upon receipt of the general building plans submission or referral from the licensing authority; and
- (e) to note the comments of the Chief Building Surveyor/New Territories West

of Buildings Department that the application should be subject to detailed scrutiny of the building plans for the proposed school submitted by the applicant.

**Agenda Item 23**

**Section 16 Application**

[Open Meeting]

A/YL-PS/318            Temporary Petrol Filling Facilities (with Ancillary Site Office)  
for a Period of 3 Years in “Green Belt” and  
“Industrial (Group D)” zones and an Area shown as “Road”,  
Lots 241S.D(Part) and 241RP in D.D. 127 and  
Adjoining Government land, Yuen Long  
(RNTPC Paper No. A/YL-PS/318)

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122.            The Committee noted that on 18.5.2010, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer consideration of the application for two months in order to allow time for addressing the comments from Government departments and submitting the further information to substantiate the application.

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

[Dr. W.K. Yau returned to join the meeting at this point.]

**Agenda Item 24**

**Section 16A Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL/139-1            Proposed Class B Amendments to the Approved Master Layout Plan under Application No. A/YL/139 – Proposed Comprehensive Commercial/Residential Development and Proposed Vehicular/Pedestrian Bridge with Retail Use in “Comprehensive Development Area” zone and an Area shown as “Road”, Yuen Long Town Lot No. 507, Area 15, Yuen Long Town (RNTPC Paper No. A/YL/139-1)

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

**Presentation and Question Sessions**

125.            With the aid of a Powerpoint presentation, 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 proposed Class B amendments to the approved Master Layout Plan (MLP) for the proposed comprehensive commercial/residential development and proposed vehicular/pedestrian bridge with retail use;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) the District Officer/Yuen Long (DO/YL) received a total of 18 objection letters from two Yuen Long District Council Members, the Chairman of Shap Pat Heung Rural Committee (SPHRC), the Village Representatives (VRs) of a number of local villages and the Seven Villages of Shap Pat



Heung Joint Committee, the village of Tung Tau Tsuen, the Owners' Corporation (OC) and residents of the Sun Yuen Long Centre (SYLC), the OC of Cheong Wai Building and eight members of the public. The objections are mainly on the adverse environmental, air ventilation, landscaping, traffic, fire safety and building structural impacts of the application on the surrounding areas, in particular the nearby villages and the SYLC. During the statutory publication period, the Secretary of the Town Planning Board received 17 letters from members of the public supporting the application on the grounds that the proposed commercial/residential development would help vitalize the property market and local economy in the area; provide job opportunities and increase the provision of community facilities (community hall and residential care home for the elderly (RCHE)) for the area; and the recessed podium together with stepped height and increased landscaping would improve the air ventilation performance of the area.; and

- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application based on the assessments set out in paragraph 9 of the Paper. PlanD's assessments of the application were summarized below :

Building Layout and Podium Design

- as compared with the original approved scheme (Application No. A/YL/139), the current proposed Class B amendments mainly related to a series of building layout changes. The building layout and podium design for the proposed development had generally been improved;
- on the noise aspect, the Director of Environmental Protection advised that after adopting mitigation measures including additional sideway openable windows and screening building structure, the traffic noise compliance rate of the residential portion still remained at 83% but the maximum predicted noise level was reduced to 79dB(A), i.e. a 2dB(A) improvement over the original approved scheme. The Chief Town Planner/Urban Design & Landscape, Planning Department

pointed out that although private open space had been reduced by 9% as a result of the terraced podium, there would be more greening opportunity and the total bulk of the podium was also lessened. The Air Ventilation Assessment submitted by the applicant also confirmed that the terraced podium, together with the widening of the separation of Blocks T1 and T2 from about 2m to 11m and podium setback by 10m, would enhance air ventilation. In particular, the setback of podium and adoption of terraced design fronting Castle Peak Road-Yuen Long would not only benefit the area in close proximity. It would also enhance wind flow along Castle Peak Road-Yuen Long under the prevailing easterly wind, which would benefit the Yuen Long Town area;

- concerned departments had no adverse comments on the proposed amendments. Technical comments of the relevant departments such as road and rail traffic noise, landscaping, fire services, water supplies and traffic arrangement on the proposed development could be further addressed during compliance of relevant approval conditions to the satisfaction of the respective departments;

#### 24-hour Pedestrian Passageway

- in the original approved scheme (Application No. A/YL/139), the area of the 24-hour pedestrian passageway on the G/F, 1/F and 2/F of the proposed development had been excluded from the gross floor area (GFA) calculation. Under the approved scheme, a maximum GFA of 1,500m<sup>2</sup> for the proposed vehicular/pedestrian bridge across Castle Peak Road had been assumed by the applicant to be exempted from GFA calculation. The applicant had also confirmed that he would not apply for bonus GFA for the 24-hour pedestrian passageway, and the vehicular/pedestrian bridge across Castle Peak Road would be revised if the actual area exempted by the Buildings Department for GFA calculation was less than 1,500m<sup>2</sup>. Under the current application, the alignment of the proposed vehicular/pedestrian bridge had been changed to accord with the change in

podium layout whilst the GFA remained the same. Whether the GFA was to be exempted or bonus plot ratio be granted should be determined by the relevant Building and Land Authorities at the building plan submission and land grant stages. The applicant should be advised to resubmit a revised scheme for the consideration of the Town Planning Board (TPB) if the area of the proposed passageway was to be included into the GFA/plot ratio calculation or the GFA of the proposed vehicular/pedestrian bridge to be exempted was less than 1,500m<sup>2</sup>;

- apart from the above amendments, the development parameters such as domestic plot ratio, number of residential blocks and building height in mPD either remained unchanged or had insignificant changes. The proposed comprehensive commercial/residential development was therefore in line with the planning intention of the “CDA” zone for the site;

#### Extension of Time for Commencement of Development

- the applicant had shown efforts for the implementation of the approved development by submitting land grant application to the Lands Department. As the land exchange was subsequently executed on 1.3.2010, according to the ‘Town Planning Board Guidelines on Extension of Time for Commencement of Development’ (TPB Guidelines No. 35B), the proposed development was deemed to have commenced. As such, the extension of time for commencement of development was not necessary; and

#### Local Views

- the objections were mainly on the adverse environmental, air ventilation, landscaping, traffic, fire safety and building structural impacts on the surrounding areas in particular the nearby villages and the SYLC. Similar public concerns were already raised in Application No. A/YL/139 and had been duly considered by the Committee in approving the application. In fact, the proposed Class

B amendments provided a series of improvements to the approved scheme, including a more slender form of residential towers for a greater separation between the development and the adjoining existing developments, a terraced design and setback podium for enhancing the air ventilation performance and visual permeability. Concerned departments consulted also had no adverse comments on the application. Moreover, appropriate conditions would be recommended to ensure those concerns could be properly addressed to satisfy the requirements of concerned departments. The applicant had also been advised to approach the SPHRC, the VRs of nearby villages and residents of SYLC explaining their latest development proposal and implementation progress. In this regard, according to the applicant and DO/YL, he had already started and would continue dialogue with the local community. Apart from the local objection received, the applicant had attached four supporting letters from VRs of Tsoi Uk Tsuen, Tai Wai Tsuen, Shan Pui Tsuen and Nam Pin Wai in the application.

126. A Member said that as compared with the original approved scheme, the locations of the proposed community hall and the RCHE had been changed. This Member asked whether such change would affect elderly and the locals in accessing these facilities. In response, Mr. W.M. Lam said that as compared to the previous approved scheme, the community hall under the current application was still located on the G/F but with a different configuration. Its main entrance would face Long Ming Street, which would connect to the exit of the West Rail Yuen Long Station. The proposed RCHE was located at a different location on the 3/F. Its access requirement for the elderly would be governed by the relevant licensing authorities for the provision of RCHE.

127. A Member said that as shown on Plan A-2 of the Paper, the existing village access road would be permanently closed. This Member asked whether the locals had been consulted on the closure of the village access road. In response, Mr. W.M. Lam said that the existing village road would be permanently closed and become a drainage reserve and cycle tracks under the project of CEDD. There would be provision of footbridges connecting the site with the West Rail Station to the north and adjoining areas to the south. The public

could gain access to the site via the elevated footbridges and the entrances of the development at ground level. The locals did not have objection to the closure of the existing access road.

128. A Member referred to paragraph 8.1.13 of the Paper and asked whether the proposed extension of time of the development up to 2.6.2014 would have adverse impact on the construction works of cycle tracks under the CEDD's project. In response, Mr. W.M. Lam said that as the land exchange was subsequently executed on 1.3.2010, according to the Town Planning Board Guidelines No. 35B, the proposed development was deemed to have commenced. As such, the extension of time for commencement of development was not necessary. Moreover, it was stipulated in the lease conditions that the two areas to be developed into cycle tracks had to be formed on or before 31.3.2011 and 31.12.2011 to dovetail with the programme of the CEDD. It was also recommended in the approval condition (c) in paragraph 10.2 of the Paper requiring the submission of an implementation programme of the proposed development. With this condition, the applicant would be required to liaise with the respective departments on the programme to provide the various facilities.

#### Deliberation Session

129. Mr. Ambrose Cheong said that in their previous comment on the application, the Transport Department (TD) had requested that applicant to clarify some points on the application. As the applicant had responded to TD's request, TD confirmed that the advisory clause (e) in paragraph 10.2 on page 24 of the Paper could be deleted accordingly if the current application was approved by the Committee. Members agreed to TD's suggestion.

130. Members considered that the proposed amendments mainly related to a series of changes to the building layout and the revised layout and design had generally been improved as compared with the original approved scheme. Members also noted that relevant condition had been stipulated to govern the implementation programme of the proposed development and the related facilities.

131. After further deliberation, the Committee decided to approve the application, on

the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission and implementation of a revised Master Layout Plan (MLP) to take into account conditions (d), (f), (g) and (j) to (n) to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission and implementation of the Landscape Master Plan including tree preservation proposals to the satisfaction of the Director of Planning or of the TPB;
- (c) the submission of an implementation programme to the satisfaction of the Director of Planning or of the TPB;
- (d) the design and provision of the proposed footbridges across Long Yat Road, Road 6/L3 and Castle Peak Road including the proposed vehicular connections, if any, the associated landings, staircases and disabled facilities, and demolition of the existing footbridge across Castle Peak Road, as proposed by the applicant, to the satisfaction of the Director of Highways or of the TPB;
- (e) the provision of improvement measures at Castle Peak Road and Pok Oi Interchange, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;
- (f) the provision of Road 6/L3 and vehicular access arrangement including internal vehicular access and ingress/egress points to the satisfaction of the Commissioner for Transport or of the TPB;
- (g) the design and provision of noise mitigation measures to the satisfaction of the Director of Environmental Protection or of the TPB;
- (h) the implementation of temporary and permanent sewage disposal arrangements depending on the commissioning date of the Au Tau Trunk

Sewer (as proposed in the approved Sewerage Impact Assessment (SIA) for the previous application No. A/YL/83) and the SIA for the current application, to the satisfaction of the Director of Environmental Protection Department or of the TPB;

- (i) the submission of a revised drainage impact assessment and the provision of flood mitigation measures proposed therein and necessary drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB;
- (j) the provision of emergency vehicular access on the podium to the residential blocks, fire fighting arrangement to the Residential Care Home for the Elderly (RCHE), water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (k) the design and provision of a Community Hall with net operation floor area (NOFA) of not less than 593m<sup>2</sup>, and the associated parking facilities to the satisfaction of the Director of Home Affairs or of the TPB;
- (l) the design and provision of RCHE with NOFA of not less than 1,576m<sup>2</sup> and the associated parking facilities to the satisfaction of the Director of Social Welfare or of the TPB;
- (m) the provision of a 6m wide Waterworks Reserve for the existing fresh water trunk main along the southern boundary of the application site to the satisfaction of the Director of Water Supplies or of the TPB; and
- (n) the provision of car parking and loading/unloading spaces to the satisfaction of the Commissioner for Transport or of the TPB.

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

- (a) to revise the MLP to take into account the conditions of approval imposed

by the Board. The approved MLP, together with the set of approval conditions, would be certified by the Chairman of the Board and deposited in the Land Registry in accordance with section 4(A)(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 note the comments of the District Lands Officer/Yuen Long that should the proposed amendments and timing of completion not complied with the Conditions of Exchange, a lease modification and/or the Director of Lands' consent or approval would be required;
- (c) to note the comments of the Director of Environmental Protection that the applicant should make every effort to explore future noise mitigation measures if possible in the later detailed design stage so as to improve the traffic noise compliance rate and reduce the maximum noise level as far as practicable. As implementation of various noise mitigation measures was proposed, the applicant should advise how to disclose information of the measures to potential buyers and ways to avoid the measures from being changed/removed by future users after occupation. Rail noise assessment based on revised floor layouts/MLP to be prepared and provided to the MTR Corporation Ltd. (MTRCL) would include noise criteria, noise prediction results, at source/receiver noise mitigation measures proposed, etc. Such information should be provided in the present application for record and future reference purposes. The applicant should also take note of his technical comments at Appendix IV of the Paper;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the proposed 24 hours pedestrian walkway which was designated for public passage would be subject to claim for bonus plot ratio and site coverage under the Buildings Ordinance. Detailed comments would be made upon formal submission of building plans. The gross floor area (GFA) exempted issues would be assessed upon formal submission of the building plans. The Building Authority



might refuse to give his consent to the commencement of any works where a period exceeding 2 years had lapsed since approval of any of the prescribed plans in respect of the building works. His comments on the previous applications in paragraph 8.1.3 of the RNTPC Paper No. A/YL/139 were still valid and applicable;

- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that the internal driveways should be designed and constructed to the HyD's and Transport Planning and Design Manual's standards. Besides, the internal driveways should be regulated by the developer/owner by means of proper manned drop gates/barriers to deter illegal access and to allow proper management and control;
- (f) to note the comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, HyD that as the proposed development fell within the West Rail protection boundary, the applicant should liaise direct with MTRCL regarding any concerns and conditions they might have in relation to the safe operation and maintenance of the existing railway. The proposed buildings should nevertheless be sufficiently far away from the operating railway so as to avoid any falling objects from affecting the existing railways at any time;
- (g) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that existing water mains and Waterworks Reserves (WWRs) would be affected by the development. The diversion of these affected water mains was not feasible. A 3m wide WWR would be provided. No structure should be created over these WWRs and such areas should not be used for storage and tree planting purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority might require or authorize. Government should not be liable to any damage whatsoever and howsoever caused arising from burst or

leakage of the public water mains within and in close vicinity of the site;

- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that visual illustrations showing the three sides of the podium to visualize the effects of the mitigation measures should be provided. Landscape treatment should be provided to screen the structures and to the individual lot which would be totally surrounded by the proposed development;
- (i) to note the comments of the Director-General of Civil Aviation that the site was outside the current Noise Exposure Forecast (NEF) 25 contour. However, as air traffic increase, there was a possibility that take-offs would take place from both runways of the Hong Kong International Airport independently. Under this scenario, there would be a departure flight path close to the site. Therefore, the site would be affected by aircraft noise, and the noise might be particularly audible when the background noise was low;
- (j) to resubmit a revised scheme for consideration of the TPB if the area of the 24-hour public passageway was to be included into the GFA and plot ratio calculation or the GFA of the proposed vehicular/pedestrian bridge to be exempted was different from the current scheme as stated in paragraph 9.4 of the Paper; and
- (k) approach the Shap Pat Heung Rural Committee, the Seven Villages (Nam Pin Wai, Tung Tau Tsuen, Tsoi Uk Tsuen, Ying Lung Wai, Tai Wai Tsuen, Wong Uk Tsuen and Shan Pui Tsuen) of Shap Pat Heung Joint Committee and the residents of the Sun Yuen Long Centre explaining the development proposal and implementation progress as stated in paragraph 9.7 of the Paper.

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

[Mr. Y. K. Cheng returned to join the meeting and Mr. Timothy K.M. Ma left the meeting at this point.]

**Agenda Item 25**

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/675            Temporary Open Storage and Godown (for Ceramic Tableware)  
for a Period of 3 Years in “Comprehensive Development Area” zone,  
Lots 107 (Part), 110 (Part), 113 (Part), 114 (Part) and  
115 S.A (Part) in D.D.125, Ha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-HT/675)

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Presentation and Question Sessions

133.        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 and godown (for ceramic tableware) for a period of three years;
- (c) departmental comments – the Director of Environmental Protection (DEP) advised that the application site was not subject to any pollution complaint from January 2007 to February 2010. He did not support the application as there were sensitive uses in the vicinity of the site (about 3m and 30m away) and along the access road (Ping Ha Road) and environmental nuisance was expected;
- (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 – the PlanD had no objection to the application based on the assessments set out in paragraph 12 of the Paper. The applied use was not incompatible with the surrounding uses within the subject “Comprehensive Development Area” (“CDA”) zone which was predominantly occupied for open storage yards. It was considered that approval of the application on a temporary basis would not frustrate the planning intention of the “CDA” zone since there was not yet any programme/known intention to implement the zoned use. The development was in line with the ‘Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB Guidelines No. 13E). Though DEP did not support the application because there are sensitive uses in the vicinity of the site and along the access road, there had not been any environmental complaint against the site over the past three years. To address DEP’s concerns and to mitigate any potential environmental impacts, approval conditions on restrictions of operation hours and workshop activities had been recommended in paragraph 13.2(a) to (c) of the Paper. Moreover, there was no adverse comment from other concerned Government departments. The technical concerns raised by these departments could also be addressed by the approval conditions stated in paragraphs 13.2(e) to (i) 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 by the Planning Authority. Due to the demand for open storage uses in the area, the Committee/the Board had recently approved a number of similar applications within the same “CDA” zone for various temporary open storage/port back-up uses. Since granting these approvals, there had been no material change in the planning circumstances. Approval of the subject application was therefore in line with the Committee’s previous decisions. There was no local objection against the application.

134. A Member enquired whether enforcement would be undertaken if marble plates instead of ceramic tableware currently applied for and approved by the Committee, were stored on site.

135. In response, Mr. Anthony C.Y. Lee said that there were different categories of uses in which the Planning Authority would base upon for enforcement action. The Chairperson supplemented that different category of uses would have different impacts such as traffic trips generation on the surrounding areas and detailed information on the categorization of uses, however, was not in hand. Nonetheless, ceramic tableware, a kind of utensils, was considered substantially different from marble plates, which would be regarded as a kind of construction materials. The Secretary further supplemented that the application involved both open storage and godown. According to Drawing A-1 of the Paper, one of the structures on site would be used as a godown. As different storage uses would have different traffic, drainage and environmental impacts on the surrounding areas, should the Committee decide to approve the current application, the permission would be granted on the terms as submitted to the TPB. Regarding the question on whether enforcement could be undertaken by the Planning Authority against a use which was different from the use approved by the TPB, it would depend on whether sufficient evidence could be collected to demonstrate that the use in question was materially different from the approved use.

136. In response to a Member's enquiry, the Chairperson said that it was common in rural New Territories areas that many application sites also felled within area subject of enforcement actions. The situation was attributable to the lengthy enforcement/prosecution process and the owners/occupiers might choose to regularize the unauthorized use by obtaining planning permission from the TPB.

137. Referring to paragraph 4 of the Paper which stated that Enforcement Notice was issued to the responsible parties on 18.1.2010, a Member enquired if the applicant of the current application was one of the Notice recipients. In response, Mr. Anthony C.Y. Lee said that information in this regard was not in hand..

138. A Member considered that as the enforcement issue had involved several authorities including planning, building and lands, there should be a close liaison among the departments so that enforcement against unauthorized uses could be pursued in a more coordinated manner.

Deliberation Session

139. Members considered that the application basically complied with the relevant planning guidelines and assessment criteria for open storage and godown use and thus the use under application could be tolerated on a temporary basis. As regards the comments of Buildings Department (BD) requiring the removal of existing structures on site, Members considered that the issue primarily involved illegal building structures under the Buildings Ordinance which should be subject to the enforcement action by BD.

140. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 28.5.2013, 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 8:00 p.m. to 8:00 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 cutting, cleansing, melting, dismantling or any other workshop activity was allowed to be carried out on the site, as proposed by the applicant, during the planning approval period;
- (d) no material was allowed to be stored/dumped within 1m of any tree on the site during the planning approval period;
- (e) the provision of drainage facilities proposed within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 28.11.2010;
- (f) the submission of landscape and tree preservation proposal, including clearance of the dumped materials and weeds around the trees, within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 28.11.2010;

- (g) in relation to (f) 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 28.2.2011;
- (h) the submission of fire service installations proposals within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.11.2010;
- (i) in relation to (h) above, the implementation of the fire service installations proposals within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.2.2011;
- (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;
- (k) if any of the above planning conditions (e), (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; and
- (l) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

141. 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) to resolve any land issues relating to the development with the concerned owner(s) of the site;

- (c) 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; if the agricultural structures on Lot No. 115 S.A in D.D.125 permitted under Letter of Approval No. MT/LM 14435 were converted for non-agricultural purposes, his Office would arrange to terminate the permit as appropriate; 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;
  
- (d) 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;
  
- (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. 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 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)', the construction works for which had already commenced in December 2007 for completion in end 2010. The 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 requirements of formulating the FSI proposals as stated in Appendix IV of the Paper;
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department to remove existing structures that apparently have not obtained approval under the Buildings Ordinance (BO). Any temporary buildings were subject to control under the 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 were 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 that water mains in the vicinity of the site could not provide the standard fire-fighting flow.

**Agenda Item 26**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-MP/181          Proposed School (Tutorial School) in “Residential (Group C)” zone,  
Shop 14B, 1/F, Block C, Town Centre, Fairview Park, Mai Po,  
Yuen Long  
(RNTPC Paper No. A/YL-MP/181)

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**Presentation and Question Sessions**

142.          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 proposed school (tutorial school);
- (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 – the PlanD had no objection to the application based on the assessments set out in paragraph 12 of the Paper. The application was considered in line with the 'Town Planning Board Guideline for Application for Tutorial School under Section 16 of The Town Planning Ordinance' (TPB Guidelines No. 40) in that the proposed tutorial school was situated on the first floor of a commercial complex where retail shop, art school, tutorial centres, office and clinic were located. The proposed tutorial school was considered not incompatible with the existing uses of the surrounding premises. Moreover, as the application premises was located in a separate commercial complex known as Block C of Town Centre, Fairview Park, and there was no common entrance with the residential blocks of Fairview Park. The proposed tutorial school was not expected to create any disturbance to the residents of Fairview Park. The proposed use was small in scale with a maximum capacity of 12 students and two teaching staffs in a premises with a total area of 33m<sup>2</sup>. It was unlikely that it would cause any significant adverse impacts on the surroundings. There was no public comment received during the statutory public inspection period.

143. Members had no question on the application.

Deliberation Session

144. 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 28.5.2014, 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.

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

- (a) to note the comments of the Director of Fire Services that detailed fire services requirements would be formulated upon receipt of the formal submission of the general building plans; and
- (b) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the applicant was required to comply with the issue of certifications and notice under the Education Ordinance (EO) s12(1) from the Director of Buildings. Under EO s11(b), an application for registration of a school in a non-purpose built premises should be accompanied by additional documents specified in EO s12(1) which, inter alia, included the certificate and notice issued by the Director of Buildings.

## **Agenda Item 27**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/250 Proposed Amendments to the Approved Scheme under Application No. A/YL-NTM/236 for Proposed Religious Institution (Christian Seminary Development) and Minor Relaxation of the Maximum Plot Ratio in “Residential (Group C)” zone, Lots 1117 S.B, 4198 S.A ss.8 RP, 4198 S.A ss.9 RP, 4198 S.A ss.12 RP, and 4198 S.A RP in D.D. 104, Ngau Tam Mei, Yuen Long  
(RNTPC Paper No. A/YL-NTM/250A)

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Presentation and Question Sessions

146. 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 proposed amendments to the approved scheme under Application No. A/YL-NTM/236 for the proposed religious institution (Christian Seminary Development) and a minor relaxation of the maximum plot ratio;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) one public comment was received from two indigenous villagers during the statutory publication period. The commenter objected to the application on the grounds that the proposed religious institution would affect the daily life and ‘fung shui’ of the traditional indigenous village. The District Officer (Yuen Long) had no comment on the application; and
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. The application site was the subject of a previous application (No. A/YL-NTM/236) for proposed religious institution (seminary) which was approved by the Committee in May 2009. As compared to the previously approved scheme, the applicant under the current application sought an increase in the maximum permissible site coverage from 25% to 35% and a minor relaxation of the maximum plot ratio from 0.4 to 0.416 for the proposed development. The increase in site coverage was due to the inclusion of back-up support services, including electrical and mechanical rooms, utilities, pump room and A/C fins, into the calculation. These structures were already proposed under the previously approved scheme but were assumed to be exempted from the site coverage calculation. Since no maximum site coverage restriction had been stipulated for the “Residential (Group C)” (“R(C)”) zone, the proposed increase in the

maximum permissible site coverage had not contravened the statutory provisions of the “R(C)” zone. The proposed minor relaxation of the maximum plot ratio by 0.016 was to accommodate the caretaker’s quarters of 40.5m<sup>2</sup> and to refine the site boundary. As the proposed seminary was not a domestic building and had no domestic part within the building, the concerned GFA could not be exempted from the plot ratio calculation according to the Notes of the “R(C)” zone. Nevertheless, the proposed development could be regarded as a kind of GIC facility and the caretaker’s quarters were essential ancillary facilities of the development. Hence, sympathetic consideration could be given to the minor exceedance in plot ratio to include such facilities. Moreover, the inclusion of the caretaker’s quarters was not expected to result in significant adverse impacts in terms of traffic, environmental, sewage, drainage, visual, landscape and fire safety aspects on the surrounding areas. In this regard, relevant Government departments had no adverse comments on the application. To avoid any interface issues with the proposed Northern Link railway (NOL), an approval condition requiring the applicant not to place structures within the NOL railway reserve was suggested in paragraph 12.2 of the Paper. To address technical concerns of the departments, relevant approval conditions were suggested in paragraph 12.2 (b) to (g) of the Paper. As regards the public comment objecting to the application on the grounds that it would affect the daily life and ‘fung shui’ of the traditional indigenous village, there was no village type development in the vicinity of the proposed seminary as the nearest village, Wai Tsai Tsuen, was about 250m away to the west.

147. A Member enquired, apart from the caretaker’s quarters, whether there would be provision of dormitory for students within the proposed seminary. In response, Mr. Anthony C.Y. Lee said that teaching facilities such as lecture rooms, student rooms and library would be provided within the proposed seminary. Hence, dormitory for students would not be provided.

#### Deliberation Session

148. 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 28.5.2014, 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) no structures should be erected within the proposed Northern Link railway reserve;
- (b) the submission and implementation of landscape proposal including tree preservation scheme for the site to the satisfaction of the Director of Planning or of the TPB;
- (c) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB; and
- (d) the submission and implementation of emergency vehicular access, water supply for fire fighting and fire service installations proposals to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) the approval of the application did not imply that the proposed gross floor area (GFA) concession for the proposed development would be granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval. If GFA concession was not granted by the Building Authority and major changes to the current scheme were required, a fresh planning application to the Town Planning Board might be required;
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department to apply for a land exchange for implementing the proposed development. As the current application deviated from the provisional basic terms as offered, the applicant should be advised to submit an

application to his Office to amend the basic terms;

- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that caretaker's room should be included in the GFA calculation under the Buildings Ordinance (BO). Exemption of the back-up support service from the GFA calculations under the BO would be assessed separately upon formal submission of building plans;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his Office was not/should not be responsible for the maintenance of any existing vehicular access connecting the site and Ngau Tam Mei Road;
- (e) to note the comments of the Director of Environmental Protection that the proposed use currently fell within an unsewered area. It would be controlled under the Water Pollution Control Ordinance. The proponent/user should apply for a wastewater discharge licence from the Authority. Once the public sewer was available in the vicinity, any wastewater facilities of the proposed development should be connected to the public sewer by the proponent/user and under their expenses. Any wastewater generated should be discharged to the public sewer;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape that there were discrepancies in the private open space to be provided in the development. Although as confirmed by the applicant, the private open space to be provided on ground floor was 1,233m<sup>2</sup>, the decrease of open space provision from that stated in the previous approved application was not elaborated. Together with some minor discrepancies in the landscape proposal and tree survey, these discrepancies need to be rectified and explained in the submission of landscape proposal in due course; and
- (g) to note the comments of the Director of Food and Environmental Hygiene that a proper food licence or to register as a staff canteen was necessary if

any food handling or any class of food business to be conducted in the premises.

**Agenda Item 28**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/252      Temporary Shop and Services (Sales Office for Sale of Goods Vehicles) for a Period of 3 Years in “Open Storage” zone, Lots 2757 RP (Part), 2758 RP, 2759, 2760, 2761 S.A, 2761 RP, 2762 (Part), 2765 (Part) and 2803 RP in D.D. 102 and Adjoining Government Land, Ngau Tam Mei, Yuen Long (RNTPC Paper No. A/YL-NTM/252)

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**Presentation and Question Sessions**

150.      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 shop and services (sales office for sale of goods vehicles) for a period of three 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 – the PlanD had no objection to the application based on the assessments set out in paragraph 12 of the Paper. The application site was generally in line with the planning



intention of the “Open Storage” (“OS”) zone. The proposed use was compatible with the surrounding environment which comprised mainly of open storage uses. There was no environmental complaint received in the past three years. To mitigate any potential environmental impacts, approval conditions restricting operation hours had been recommended in paragraphs 13.2(b) and (c) of the Paper. Any non-compliance with the approval conditions would result in revocation of the planning permission and the unauthorised development on site would be subject to enforcement action by the Planning Authority. The site had been the subject of three approved applications for similar uses since 2000. Although the last planning approval (No. A/YL-NTM/228) was revoked due to the failure to comply with the approval condition on submission of fire service installations (FSIs), the applicant had made effort to comply with that condition on FSIs during the approval period but the submission was not considered acceptable to the Director of Fire Services. The applicant had complied with the conditions related to drainage and landscaping under the previous approval. The current application sought permission for the same use of the site as previously approved. Concerned departments had no objection to the application and their concerns could be addressed by stipulating approval conditions as recommended in paragraphs 13.2 of the Paper. However, since the previous application was revoked due to non-compliance with the approval condition, shorter compliance periods were recommended to monitor the progress of compliance should the Committee decide to approve the application. Moreover, the applicant should 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 public comment on the application.

151. Members had no question on the application

#### Deliberation Session

152. After deliberation, the Committee decided to approve the application on a

temporary basis for a period of 3 years until 28.5.2013, 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 site boundary to avoid encroachment onto the works limit of the Northern Link railway development as when required by Government departments;
- (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 or public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (d) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (e) 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 28.8.2010;
- (f) the implementation of compensatory planting within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 28.11.2010;
- (g) the submission of fire service installations proposals within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 28.8.2010;
- (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 28.11.2010;
- (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; and

- (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.

153. 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 given to monitor the progress on compliance with 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 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 the site includes Old Schedule Agricultural Lots held under the Block Government Lease under which no structures were allowed to be erected without prior approval from his office; there were unauthorised structures (including converted containers) on the site. Besides, two pieces of Government land (GL) within the site were also occupied without approval from his Office. His Office reserved the right to take lease enforcement/control action against these irregularities, if indeed found in due course; however, should planning approval be given, the registered owner(s) of and the occupier(s) of lot(s) concerned to apply for a Short Term Waiver (STW) or Short Term Tenancy (STT) to regularize the irregularities on site. Should no STW/STT application was received/approved and the irregularities persist on site, his Office would

consider taking appropriate lease enforcement/land control action against the registered owner(s)/ occupier(s); the ingress/egress of the site did not abut on Kwu Tung Road but accessible through a small piece of open GL. His Office did not guarantee right-of-way nor maintenance works to the piece of GL;

- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that the applicant was required to provide DSD for reference a set of record photographs showing the completed drainage work(s) within corresponding photograph locations marked clearly on the approved drainage plan. DSD would inspect the completed drainage work(s) jointly with the applicant with reference to the set of photographs; the applicant should ascertain that all the overland flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas; the applicant should not disturb any existing drains and streams within the site or in its vicinity; all proposed drainage facilities should be constructed and maintained at the applicant's own cost; the site was in an area where no sewerage was available in the vicinity for connection. For the sewage disposal and treatment, the applicant should consult the Environmental Protection Department; and the applicant should consult DLO/YL regarding all the proposed drainage works outside the lot boundary in order to ensure unobstructed discharge from the site in future;
- (f) to comply with the environmental mitigation measures recommended in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection in order to minimise the possible environmental nuisance;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department on the existing vegetations and to remove the climbers on the existing trees;
- (h) 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 IV of this Paper, the applicant should provide justifications to his Department for consideration; and

- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that existing structures which apparently had not been obtained approval under the Buildings Ordinance (BO) should be removed. Any temporary buildings were subject to control under the Building (Planning) Regulations (B(P)R) Pt. VII. The site should be provided with means of obtaining access thereto from a street under B(P)R 5 and emergency vehicular access should be provided 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.

[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.]

### **Agenda Item 29**

#### **Any Other Business**

154. There being no other business, the meeting was closed at 6:15 p.m..