

REVIEW OF APPLICATION NO. A/YL-NSW/250
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Petrol Filling Station with Sales Office
in “Undetermined” zone and an Area shown as ‘Road’
at Lots No. 999 s.E (Part), 1001 s.A RP (Part), 1002 s.A RP (Part) and 1327 RP (Part) in
D.D. 115 and Adjoining Government Land (GL),
Au Tau, Nam Sang Wai, Yuen Long**

1. Background

- 1.1 On 18.10.2016, the applicant, Gold Asset Development Limited represented by Prudential Surveyors International Limited, sought planning permission for proposed petrol filling station with sales office at the application site (the Site) (**Plan R-1**) under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area partly zoned “Undetermined” (“U”) (78%) and partly shown as ‘Road’ (22%) on the approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8.
- 1.2 On 28.4.2017, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
- (a) the proposed petrol filling station is mainly located within an area zoned “Undetermined” which is being comprehensively reviewed. Approval of the application would pose an undue constraint to the future land use in the area; and
 - (b) the applicant fails to demonstrate that the proposed development would not have adverse traffic, environmental and landscape impacts on the surrounding areas.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/YL-NSW/250B (Annex A)
 - (b) Extract of minutes of the RNTPC meeting held on 28.4.2017 (Annex B)
 - (c) Secretary of the Board’s letter dated 12.5.2017 (Annex C)

2. Application for Review

- 2.1 On 31.5.2017, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC’s decision to reject the application (**Annex D**). In support of the review application, the applicant has revised the proposal with a realigned cycle

track, and submitted revised Traffic Impact Assessment (TIA), revised Environmental Assessment (EA) and landscape proposal with updated photo records of trees to address the comments of concerned departments. The following further information (FI) were submitted in support of the review application:

- (a) FI received on 18.10.2017 including further justifications and supporting technical assessments including revised EA, revised TIA, Landscape Proposal, and Layout showing the proposed realigned cycle track (*accepted but not exempted from publication and recounting requirements*) **(Annex E)**
- (b) FI received on 14.2.2018 including response to departments' comments and an updated TIA (*accepted but not exempted from publication and recounting requirements*) **(Annex F)**
- (c) FI received on 27.4.2018 including response to departments' comments and an updated TIA (*accepted but not exempted from publication and recounting requirements*) **(Annex G)**
- (d) FI received on 4.6.2018 providing response to the Director of Housing (D of Housing)'s comments **(Annex H)**
- (e) FI received on 28.8.2018 providing response to the Director of Environmental Protection (DEP)'s comments **(Annex I)**
- (f) FI received on 3.10.2018 providing response to C for T's comments and updated TIA calculations (*accepted but not exempted from publication and recounting requirements*) **(Annex J)**
- (g) FI received on 18.12.2018 providing response to C for T's comments **(Annex K)**
- (h) FI received on 21.12.2018 providing response to C for T and Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD)'s comments **(Annex L)**

The Proposal

- 2.2 The proposed PFS includes a single storey shroff structure (10.6m²), one canopy (53.1m²) providing shelter for 4 filling points (for 4 vehicles), and 4 underground oil tanks, and ancillary tyre pumping service. The major development parameters of the proposed PFS submitted at the s.16 stage are tabled in paragraph 1.3 of **Annex A**, and remain the same at the s.17 stage.
- 2.3 The Site is accessible from Castle Peak Road. In the s.16 application, the applicant proposed a vehicular access, which, together with proposed merging/diverging lanes, will span about 70m along Castle Peak Road. The proposed access would require closure of a section of the existing cycle track and portion of the public pavement along Castle Peak Road for conversion into merging/diverging lanes of the Site and pavement area. The concerned section of cycle track forms part of the New Territories (NT) Cycle Track Network connecting North West NT with North East

NT - Tuen Mun to Sheung Shui Section newly completed by the Civil Engineering and Development Department (CEDD).

- 2.4 In the current s.17 review, to address the concerns regarding the impact on the existing cycle track/footpath and its continuity, the applicant proposed to re-align the existing cycle track and footpath along Castle Peak Road-Yuen Long by shifting them northward and converting part of the existing amenity area on the street pavement for the realigned cycle track and footpath (**Drawings R-1 and R-2**). With the realignment of the existing cycle track and footpath under the current proposal, their continuity can be maintained. The applicant will be responsible for the construction, management and maintenance of the proposed access to the Site (including the merging/diverging lanes), and also the design and construction of the proposed realigned cycle track/footpath and the pavement planting area for handing over to Government for future management and maintenance upon completion. The demarcation plan (**Drawing R-4**) sets out the area under the applicant's maintenance and management. After realignment, the existing cycle track will be shortened by about 20m. A comparison of the site layout under existing situation and the proposed layout at its s.16 and s.17 stages is at **Plan R-5**.
- 2.5 On 18.8.2017, 5.1.2018 and 27.7.2018, upon request of the applicant, the Board decided to defer decision on the review application in order to allow sufficient time for the applicant to prepare FI to address the concerned departmental comments.

3. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are at **Annexes E to L**). They can be summarised as follows:

Temporary Use for 10 Years

- 3.1 To address the concerns of the long term development plans of the Site, the applicant puts forward at the s.17 stage that they would consider accepting a planning approval on a temporary basis for a minimum period of 10 years. The applicant considers a period of 10 years is the minimum to make the proposed PFS an economically viable proposition. If approved by the Board, the applicant will need to submit applications to relevant departments before physical construction can commence. The process can take up to 2 to 3 years before the proposed PFS can commence operation.

Essential Facility for Local Community

- 3.2 If the proposed housing development at the "U" zone involves resumption of part of the private lots of the Site, the process may take an undetermined length of time. This holding back of the development opportunity for a private lot due to government's long-term "potential" development is unfair to the owners of the private land. Moreover, in light that a proposed columbarium development within the same "U" zone was approved by the Town Planning Appeal Board on 14.11.2017, it is considered that the assertion that the proposed PFS would likely pose constraints on potential public housing development within the same "U" zone is not valid.
- 3.3 The Site is located in the southwestern corner of the "U" zone, and is fronting Castle Peak Road in the south, the Yuen Long Bypass Floodway (YLBF) in the west and a

low rise hotel (Sun Kong Hotel) in the east. PFS is one of the essential services to serve the local community. PFS are often located in close proximity to other developments such as residential, commercial, industrial, schools and other government and community services.

Environmental Aspect

- 3.4 To address the DEP's concerns regarding noise issue, the applicant has updated the noise assessment report to demonstrate that the proposed PFS will meet the noise pollution standards. According to the revised EA, the Site and the surrounding areas are subject to traffic noise of Castle Peak Road, and the noise impact due to the operation of the proposed PFS at the Site will be insignificant. Besides, for the 3 sensitive receivers identified nearby, Pok Oi Hospital is provided with central conditioning. For the remaining 2 sensitive receivers, result of the noise assessment concludes that there will be negligible noise impact due to the operation of the station.

Landscape Aspect

- 3.5 In response to the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD)'s concern on landscape impact, the applicant submitted that it is necessary to remove all the trees on-site for the construction of the PFS, as the shape and size of the Site leave only some area for landscaping, and that the proposed PFS has in fact proposed more trees and scrubs than most other PFSs found in Hong Kong.

4. The Section 17 Application

Planning Intention

- 4.1 The Site (forms part of a larger "U" site) (**Plan R-1**) has been zoned "U" on the first Nam Sang Wai OZP since 3.6.1994. It was so designated as several major transport and drainage projects, including Yuen Long Highway, MTR West Rail (WR) and YLBF, which were under planning at that time, would traverse the area.
- 4.2 Under the "U" zone, any private developments or redevelopments require planning permission from the Board so as to ensure that the environment would not be adversely affected and that infrastructure, Government, institution and community (GIC) facilities, open space are adequately provided. The proposed development should also take into account the WR and the YLBF. To realise a built-form which represents a transition from the Yuen Long New Town to the rural area, the development intensity should take into account the urban type developments immediately to the west of the "U" zone and the rural characteristics of the area to its north. Development within the areas has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and thus jeopardising the long-term planning intentions of the areas.
- 4.3 Following the completion of the infrastructure projects of the Yuen Long Highway, WR and YLBF, and upon preliminary preview, the subject "U" zone is considered to have potential for housing developments and other uses. According to the 2017 Policy Address, the subject "U" zone is one of the 26 potential sites for public

housing development in the short to medium term. The detailed land use proposal and appropriate development parameters are subject to further review.

- 4.4 There has been no change to the planning intention of the concerned “U” zone and the area shown as ‘Road’ as stated above and in paragraph 8 of **Annex A**.

The Site and its Surrounding Area (Plans R-1a, R-1b, R-2a, R-2b, aerial photo on Plan R-3 and photos on Plans R-4a and R-4b)

- 4.5 The situations of the Site and its surrounding areas at the time of the consideration of the s.16 application by the RNTPC were described in paragraphs 7.1 and 7.2 of **Annex A**. There has been no material change of the situations since then.

Previous and Similar Applications

- 4.6 The previous applications at the time of the consideration of the s.16 application are mentioned in paragraph 5 of **Annex A**. There is no similar application within the subject “U” zone. Since then, no additional previous and similar application is involved.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraphs 10.1 and 10.2 of **Annex A**.
- 5.2 For the review application, the following Government departments have been consulted and their views are summarised as follows:

Land Administration

- 5.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

(a) The Site comprises four private lots in DD 115 and adjoining GL. As far as the private lots are concerned, preliminary land status check review that Lots No. 999 S.E, 1001 S.A RP and 1002 S.A RP in DD 115 are Old Scheduled Agricultural lots. Lot No. 1327 RP in DD 115 is held under New Grant No. 6825. The area and permitted use of the lots under application have to be verified at the land exchange stage if any land exchange is applied for by the applicant to LandsD.

(b) The Site is subject to Shek Kong Airfield Height Restriction.

Proposed PFS Use

- (c) In the event that planning permission is given, the applicant has to apply to LandsD for a land exchange. Such application will be considered by LandsD acting in its capacity as the landlord at its sole discretion and there is no guarantee that the land exchange, including the grant of additional Government Land (GL) (if any), for the proposed

development will be approved. In the event if the land exchange application is approved, it would be subject to such terms and conditions including, among other things, the payment of premium and administrative fee as may be imposed by LandsD.

- (d) As regards the applicant's proposed 10-years temporary approval, under existing policy, LandsD may consider granting short term waiver (STW) for non-agricultural temporary structures if the criteria as required under the policy is fulfilled. However, whether the proposed PFS could be considered for STW would be considered upon receipt of such formal application by LandsD and after planning permission has been obtained at which time all relevant factors will be taken into account including comments from the relevant departments, etc.
- (e) According to Lands Administration Office (LAO) Practice Notes (PN) 7/2007 and 7/2007A on "Tree Preservation and Tree Removal Application for Building Development in Private Projects", in general, the ratio for no. of trees to be felled and compensated should not be less than 1:1.

Access Arrangement

- (f) Regarding the use of 316m² (27%) GL for the proposed access, given the Site is already served by an existing dropped kerb which is on unleased/unallocated GL (no documentation to suggest that there is a right of access from the Site to Castle Peak Road), under existing policy, LandsD would only consider a direct grant of short term tenancy (STT) where there is no general public interest in the land; the land is neither capable of separate alienation nor required for any future public project. Notwithstanding that, each application would be considered on its individual merit at the time of consideration and other factors as appropriate including future planned use of the land, comments from the relevant departments, local consultation, etc., even if the criteria for direct grant STT are met.
- (g) In the event that the dropped kerb is not being managed and maintained by Transport Department/Highways Department, a right of way over the concerned dropped kerb may be required, particularly if there are any works within the dropped kerb (including any improvement works).

Traffic

5.2.2 Comments of the C for T:

TIA

- (a) He has no objection to the application and no further comment on the submitted TIA from traffic engineering perspective.

Proposed PFS Use

- (b) He notes that the applicant has provided a traffic management scheme, including the erection of a notice board prohibiting 5m-long vehicles,

and the deployment of station staff during the initial period to direct vehicles longer than 5m not to enter the station.

Reprovisioning of Cycle Track/Footpath

- (c) He considers the proposed reprovisioning of the cycle track and footpath as proposed by the applicant is in order subject to refinement of cycle track design in detailed design stage.

Access Arrangement

- (d) He notes that the applicant has submitted a demarcation plan indicating the area under the applicant's management and maintenance, and he also notes that the applicant will be responsible for the construction, management and maintenance of the proposed access to the Site (including the merging/diverging lanes and the ingress/egress, and the 3.5m footpath/pavement in between the merging lane and diverging lane), and such access should be opened to public at all times. The proposed realigned footpath/cycle track shall be handed over to the Government for future management and maintenance upon completion to the satisfaction of the Commissioner for Transport and the Director of Highways.
- (e) Should the application be approved, the following conditions would be required:
 - (i) the implementation of mitigation measures proposed in the accepted TIA to the satisfaction of the Commissioner for Transport; and
 - (ii) the design and provision of the vehicular access and the reprovisioned cycle track and footpath before operation of the use to the satisfaction of the Commissioner for Transport and the Director of Highways.

5.2.3 Comments of the CHE/NTW, HyD:

Reprovisioning of Cycle Track/Footpath

- (a) He notes in the submitted FI that the cycle track along Castle Peak Road-Yuen Long is proposed to be shifted northwards to tally with the proposed run-in to the Site. The applicant should be responsible for design and construction of such proposed modification works at the footpath, cycle track and planting area of Castle Peak Road-Yuen Long to the satisfaction of the relevant departments including HyD.
- (b) The applicant should demonstrate that the supporting structure across the nullah would not be adversely affected by the proposed modification. If planning approval is to be granted at this juncture, appropriate conditions should be incorporated such that no work shall start on site until there is submission to demonstrate that the supporting structure across the nullah

will not be adversely affected by the proposed modification, and the submission shall be agreed by HyD.

- (c) Based on HyD's experience on typical road works, the proposed diversion of the cycle track should be minor in nature and regazetting under Roads Ordinance may not be required provided that the pedestrian and cyclist accesses would be properly maintained during the work.

Demarcation Plan

- (d) He has no comment on the submitted demarcation plan, and he notes that the notice boards erected for the run-in/out of the Site would be maintained by the applicant.

5.2.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

No comment as the Site neither falls within any administrative route protection boundary, gazetted railway schemes, nor railway protection boundary of heavy rail systems.

Housing Aspect

5.2.5 Comments of the D of Housing:

- (a) She maintains objection to the application as the proposed PFS would likely pose constraints on the potential public housing development within the same "U" zone, which is one of the 26 potential housing sites announced in the Policy Address in January 2017. As the estimated land availability date of this potential public housing site is expected to be 2022/23, the proposed 10 years' approval is therefore not agreed.
- (b) CEDD has not yet confirmed the timing to undertake the technical feasibility study for the proposed housing development at the "U" zone.
- (c) Before handover of the potential public housing site to Housing Department for public housing development, the applicant/respective government departments has/have to reinstate the Site and remove all structures, including decontamination works as required, before the estimated land availability date of 2022/23.

Environment

5.2.6 Comments of the Secretary for the Environment (SEN):

The need for the PFS concerned and the suitability of its location are beyond SEN's purview. He understands that PlanD will consult relevant departments in accordance with the Hong Kong Planning Standards and Guidelines.

5.2.7 Comments of the DEP:

- (a) He considers the application has no insurmountable impacts.
- (b) Provided that the development is properly designed to incorporate suitable environmental mitigation measures, it is unlikely to cause major pollution.
- (c) Should the application be approved, condition requiring the implementation of the mitigation measures as identified in the accepted EA to his satisfaction shall be required.

Landscape

5.2.8 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) In view that the existing trees are in direct conflict with proposed layout and that full justification was given to justify there is no room for revising the layout to preserve these trees, he has no objection to the application from landscape planning perspective.
- (b) Should the application be approved by the Board, the following approval condition is recommended:

Submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Environmental Hygiene

5.2.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

He has no comment on the application provided that no Food and Environmental Hygiene Department's facilities will be affected and such work and operations shall not cause any environmental nuisance to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should arrange its disposal properly at their own expenses. Proper license/permit issued by his Department is required if there is any food business/catering service/activities regulated by DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

Others

5.2.10 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) According to the submission, roadside planter area falls within the Site, shrubs were planted on the roadside planter whilst the Leisure and Cultural Services Department (LCSD) is responsible for horticultural maintenance and the hard structure is being maintained by HyD.

- (b) He has no comment on the proposal of converting part of the existing roadside amenity area which is under horticultural maintenance of this office, on the street pavement for the realigned cycle track and footpath.
- (c) The project proponent should inform his office with detailed information, i.e. affected dimensions and the approval for use of land from LandsD, if the plants will be affected in the roadside planter and the roadside amenity area. In general, LCSD requires a lead time of at least 3 months to adjust the schedule for associated horticultural maintenance.
- (d) His office shall not take up the responsibilities for management and maintenance of the landscaped area which falls within the private lot boundary.
- (e) It is noted that from the layout plan submitted, the proposed run-in and run-out areas will pass through some vacant GL and amenity areas where some trees may be affected. From tree preservation point of view, every possible effort should be made to preserve existing tree on site as far as possible and minimize the adverse impact to them. Should any trees be inevitably affected, the project proponent should submit a Tree Preservation and Removal Proposal (TPRP) with strong justifications to relevant government department(s) for consideration and approval in accordance with DEVB Technical Circular (Works) No. 7/2015.

5.3 The following Government departments have no further comments on the review application and maintain their previous views on the s.16 application (**Annex A**). Their previous views are summarized as follows:

Transport

5.3.1 The Project Manager (New Territories North and West), Civil Engineering and Development Department (PM/NTN&W, CEDD)'s previous comments on the application as stated in paragraph 9.1.7 of **Annex A** are recapitulated below:

The proposed PFS will affect the section of the cycle track newly built in the adjacent area under CEDD's Contract No. YL/2013/01. Nevertheless, this section of the cycle track was subsequently handed over to HyD/TD for operation, management and maintenance on 11.10.2016. Since it is no longer under the jurisdiction of CEDD's Contract, he has no comment from the contract points of view.

Nature Conservation

5.3.2 The Director of Agriculture, Fisheries and Conservation (DAFC)'s previous comments on the application as stated in paragraph 9.1.3 of **Annex A** are recapitulated below:

- (a) Given the Site and its surrounding area are largely disturbed/ developed in nature, he has no strong view on the application from nature conservation point of view.
- (b) Nevertheless, he notes that the proposal involves felling of a total of 23 trees (including 7 trees on GL outside the site boundary which is subject to separate approval from LandsD as mentioned by the applicant) but proposes compensatory planting of only three new trees in the landscape proposal. According to LAO 7/2007 on “Tree Preservation and Tree Removal Application for Building Development in Private Projects”, it is a general principle to implement compensatory tree planting ratio at not less than 1:1 in terms of quantity and quality within the subject lots by the applicant. Any deviation from this compensatory principle shall be supported with full justification.
- (c) Should the application be approved, the applicant is advised to adopt good site practices and implement necessary measures to prevent any disturbance or water pollution to the nearby nullah. The applicant should also seek necessary approval from the DLO/YL before commencement of any tree removal works on GL.

Building Matters

5.3.3 The Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD)’s previous comments on the application as stated in paragraph 9.1.2 of **Annex A** are recapitulated below:

- (a) He has no in-principle objection to the proposed development on the Site under the Buildings Ordinance (BO).
- (b) The applicant’s attention should be drawn to the following:
 - (i) If the existing structures are erected on leased land without approval of the BD, they are unauthorized under the BO and should not be designated for any approved use under the captioned application.
 - (ii) Before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) If the Site does not abut on a specified street having a width of not less than 4.5m wide, the development intensity shall be determined under the Building (Planning) Regulations (B(P)R) 19(3) at building plan submission stage. The site shall be provided with means of obtaining access thereto from a street under the B(P)R 5 and emergency vehicular access shall be provided under the B(P)R 41D.
 - (iv) For UBW erected on leased land, enforcement action may be taken

by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

- (v) If the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (vi) The proposed structures may be considered as temporary buildings and are subject to control under the B(P)R Pt. VII.

Drainage

5.3.4 The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD)'s previous comments on the application as stated in paragraph 9.1.11 of **Annex A** are recapitulated below:

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal; and (ii) to implement the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

5.3.5 The Director of Fire Services (D of FS)'s previous comments on the application as stated in paragraph 9.1.12 of **Annex A** are recapitulated below:

He has no objection in principle to the application subject to the followings:

- (i) Water supplies for firefighting and fire service installations should be provided to the satisfaction of D of FS.
- (ii) Detailed fire service requirements will be formulated upon receipt of formal application.
- (iii) The applicant should observe that in general, all area classified as hazardous areas in a PFS should be wholly contained within the boundaries of the Site and the separation distance of at least 4.25m from any hazardous areas to any part of adjacent property which is not of fire-resisting construction should be maintained. Should the building be a domestic premises or premises housing vulnerable populations, e.g. schools, residential homes or hospitals, the distance shall be increased to

12m. In this case, a minimum separation distance of 12m should be maintained.

Water Supply

5.3.6 The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)'s previous comments on the application as stated in paragraph 9.1.13 of **Annex A** are recapitulated below:

He has no objection to the application subject to the followings:

- (a) The existing water main will be affected. The developer shall bear the cost of any necessary diversion works affected by the development.
- (b) In case it is not feasible to divert the affected water mains, Waterworks Reserve with 1.5m measuring from the centerline of the affected water mains shown shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purposes.
- (c) The Water Authority and his officers and contractors, his or their workmen shall 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 may require or authorize.
- (d) Government shall 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.

Health

5.3.7 The Secretary for Food and Health (SFH)'s previous comments on the application as stated in paragraph 9.1.9 of **Annex A** are recapitulated below:

He has no comment on the application subject to no adverse environmental and traffic impacts on the normal operation of Pok Oi Hospital, both during the construction period and after completion of the proposed PFS.

Electricity

5.3.8 The Director of Electrical and Mechanical Services (DEMS)'s previous comments on the application as stated in paragraph 9.1.15 of **Annex A** are recapitulated below:

Electricity Safety

- (a) He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning,

designing, organising and supervising any activity near the underground cable or overhead line under application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or within the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

Town Gas Safety

- (b) There is a high pressure town gas pipeline running along Castle Peak Road- Yuen Long which is in the vicinity of the Site. The project proponent should maintain liaison/coordination with the Hong Kong and China Gas Company Limited in respect of the exact location of existing or planned gas pipe routes/gas installations in the vicinity of the proposed works area and the minimum set back distance away from the gas pipes/ gas installations if any excavation works are required during the design and construction stages of the development. The project proponent shall also note the requirements of the Electrical and Mechanical Services Department’s Code of Practice on Avoiding Danger from Gas Pipes.

District Officer’s Comments

- 5.3.9 The District Officer (Yuen Long) (DO(YL))’s previous comments on the application as stated in paragraph 9.1.17 of **Annex A** are recapitulated below :

His office has no comment on the application and he has not received any comment from the locals.

- 5.4 The following Government departments have no further comment on the review application and maintain their previous views of having no comment on the application as below:

- (a) Commissioner of Police (C of P); and
- (b) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD).

6. Public Comments received during Statutory Publication Period

- 6.1 A total of 4 public comments were received at s.16 application stage, of which two were from a member of the Yuen Long District Council (YLDC) who objects to the application as the nearby villagers consider the proposed PFS dangerous and there are similar facilities in the vicinity. The proposed PFS will also create traffic, environmental and noise nuisances which cannot be mitigated. The remaining two comments are from a member of the public, who objects to the application as it is undesirable to locate a PFS so close to a hospital, hotel and other buildings. Fire

or explosion on site would cause serious air pollution. Details are in paragraph 10 of **Annex A**.

- 6.2 The application and the subsequent FIs submitted by the applicant were published on 27.10.2017, 2.3.2018, 11.5.2018 and 12.10.2018 respectively. During the statutory public inspection periods, 10 public comments were received, with 5 submitted by the same YLDC member and 5 submitted by two members of the public (**Annex M**) raising objection to the review application on similar grounds as mentioned in paragraph 6.1 above.

7. Planning Considerations and Assessments

- 7.1 The application is for the proposed development of a PFS with sales office at the Site partly zoned “U” and partly shown as ‘Road’. On 28.4.2017, the RNTPC rejected the application on grounds that approval of the application would pose an undue constraint on the future land use in the area which is being comprehensively reviewed and the applicant has failed to demonstrate that the proposed development would not have adverse traffic, environmental and landscape impacts on the surrounding areas.
- 7.2 In the s.17 review application, the applicant has submitted further information including a proposed realigned cycle track (see details at paragraph 7.6 below) (**Drawings R-1 and R-2**), a revised EA, a revised TIA and landscape proposal with updated photo records of trees to address departmental concerns on environmental, traffic and landscape aspects. To address the concern over the long-term development plans of the area, the applicant states that he will consider accepting a permission on a temporary basis for a period of 10 years, which is the minimum to make the proposed development economically viable. The applicant is of the view that the holding back of the development opportunity for a private lot due to its being identified as a potential site for government’s long-term development is grossly unfair to the owners of the private land.

Planning Intention

- 7.3 The Site is mainly zoned “U” (78%) with a portion within an area shown as ‘Road’ (22%) on the OZP. The “U” zone was so designated as several major transport and drainage projects, including Yuen Long Highway, WR and YLBF, which were then under planning, would traverse the area. Any private developments or redevelopments require planning permission from the Board so as to ensure that the environment would not be adversely affected and the infrastructure, GIC facilities and open space are adequately provided.
- 7.4 The Site is located at the south-western corner of the “U” site to the east of YLBF. In order not to jeopardize the long-term development plan for the “U” zone, the applicant proposed in the review application that they would accept a temporary approval of 10 years, instead of a permanent approval. As pointed out by the D of Housing, the subject “U” zone has been identified as one of the 26 potential housing sites in the 2017 Policy Address for housing development in the short to medium

term, with initial estimated land availability date in 2022/23. The zone covers a large area and is subject to a number of development constraints on traffic, environmental, ecological and infrastructure aspects. The appropriate uses and development intensity for the long-term development as well as its implementation programme are subject to a technical feasibility study. Upon completion of the study, appropriate amendments to the OZP will be considered. Subject to the findings of the study and revised land uses of the area, if the concerned land is required for long-term development by the Government, the relevant land administration procedures will be followed in taking forward the long-term development. DLO/YL, LandsD advised that if a temporary approval is given, LandsD may consider granting short term waiver for the temporary structures on the Site if the criteria under their existing policy is fulfilled. In view of the above, approval of the application on a temporary basis would not jeopardize the implementation of long-term development of the area. Nevertheless, taking into account the estimated land availability schedule of 2022/23 for housing development as advised by the D of Housing, a temporary approval of 5 years, instead of 10 years as proposed by the applicant, is considered more appropriate.

PFS in the Vicinity

- 7.5 The Site is located near a main road, Castle Peak Road. According to the applicant, the proposed PFS is to serve the eastbound Castle Peak Road as there is no other PFS serving the area north of Castle Peak Road, and the PFS is one of the essential services to serve the local community and can co-exist with other developments in proximity such as residential, commercial, industrial, schools and other government and community services. There are several PFSs in vicinity of the Site, including one to the southeast of the Site across Castle Peak Road serving the westbound traffic, and one at about 800m to the east of the Site serving the eastbound Castle Peak Road (**Plan R-1**). On the need for the proposed PFS at the subject location, SEN and C for T have no comment. Other concerned departments including DEP, CHE/NTW of HyD, D of FS and DEMS have not raised adverse comment on the proposed PFS.

Technical Consideration

Access Arrangement and Cycle Track

- 7.6 The proposed PFS would affect an existing cycle track and portion of the public pavement along Castle Peak Road. The concerned section of cycle track forms part of the newly constructed NT Cycle Track Network connecting North West NT with North East NT - Tuen Mun to Sheung Shui Section. In the revised proposal, the applicant proposes to shift the existing cycle track northwards to maintain its continuity, with shortening of existing cycle track by about 20m (**Plan R-5**). The applicant indicated that he will be responsible for the construction, management and maintenance of the proposed access to the Site (including the merging/diverging lanes), and also the construction of the proposed realigned footpath/cycle track/pavement planting area for handing over to Government for future management and maintenance upon completion. TD has no in-principle objection to the proposed realignment of cycle track. CHE/NTW of HyD has no in-principle objection to the modification works at the concerned footpath, cycle track and planting area and advises that the proposed diversion of cycle track should be minor in nature. Nonetheless, should the application be approved, approval conditions

requiring the design and re-provisioning of the affected cycle track and footpath, design and provision of vehicular access, and a structural assessment on the realigned footpath/cycle track and the support structure across the nullah are suggested to be imposed to ascertain the technical feasibility of the proposal.

Traffic Impact Assessment

- 7.7 The TIA shows that the proposed PFS will not induce adverse traffic impact on the adjacent road network. C for T has no objection to the application from traffic engineering point of view, and an approval condition requiring the implementation of the mitigation measures as identified in the accepted TIA to C for T's satisfaction is suggested to be imposed, should the application be approved.

Environmental Aspect

- 7.8 Under the s.17 scheme, the applicant has submitted revised EA to address DEP's concerns and clarified that the identified noise sensitive receiver, i.e. the low-rise Sun Kong Hotel is with air conditioning services. The revised noise assessment report shows that the proposed PFS will meet the noise pollution standards and any noise pollution will be coming from the passing traffic at Castle Peak Road instead of the operation of the proposed PFS at the Site. DEP considers the revised EA acceptable and has no further comments, and an approval condition requiring the implementation of the mitigation measures as identified in the accepted EA to DEP's satisfaction is recommended, should the application be approved.

Landscape Aspect

- 7.9 The applicant has provided updated photo records of trees and justifications on the need to remove all the trees on-site for the construction of the PFS. CTP/UD&L, PlanD has no objection to the application from landscape planning perspective in view that the existing trees are in direct conflict with proposed layout and that full justification was given to justify there is no room for revising the layout to preserve these trees. Should the application be approved, an approval condition requiring the submission and implementation of a tree preservation and landscape proposal to D of Plan's satisfaction is recommended.

Previous Applications

- 7.10 The Site is the subject of 2 previous approvals (No. A/YL-NSW/17 and 182) and 2 disapprovals (No. A/YL-NSW/1 and 217) for the same PFS use at the Site, due to their respective individual merits and circumstances, the details of which are at paragraph 5 of **Annex A**. Application No. A/YL-NSW/17 (which covered a much larger site) was approved by the RNTPC in 1997 mainly on the grounds that the proposed PFS would not jeopardize the implementation of the YLBF and relevant departments have no objection/adverse comments on the application. The approved use had not been implemented. For Application No. A/YL-NSW/182, the Board granted a temporary approval of 10 years on review, instead of a permanent permission sought in order not to jeopardize the long-term planning of the "U" zone. The permission was however revoked on 6.3.2011 due to non-compliance with approval conditions. Approval of the subject application on a temporary basis is in line with the previous decision of the Board.

Public Comments

- 7.11 At the s.17 stage, 10 objecting public comments were received raising concerns for locating a PFS close to hospital, hotel and other buildings and that the proposed PFS will also create traffic, environmental and noise nuisances which cannot be mitigated. The planning assessment in the above paragraphs is relevant.

8. Planning Department's Views

- 8.1 Based on the assessment made in paragraph 7 and having taken into account the public comments mentioned in paragraph 6, the Planning Department has no objection to the granting of a temporary approval for the application upon review.
- 8.2 Should the Board decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 28.12.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:
- (a) the design and provision of the vehicular access and the reprovisioned cycle track and footpath before operation of the use to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board;
 - (b) the implementation of the mitigation measures identified in the accepted traffic impact assessment before operation of the use to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
 - (c) the submission of a structural assessment on the realigned cycle track/footpath and the supporting structure across the nullah before operation of the use to the satisfaction of the Director of Highways or of the Town Planning Board;
 - (d) the submission and implementation of a fire service installations proposal before operation of the use to the satisfaction of the Director of Fire Services or of the Town Planning Board;
 - (e) the submission and implementation of a drainage proposal before operation of the use to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
 - (f) the submission and implementation of a tree preservation and landscape proposal before operation of the use to the satisfaction of the Director of Planning or of the Town Planning Board;
 - (g) the implementation of the mitigation measures as identified in the accepted environmental assessment before operation of the use to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
 - (h) the provision of boundary wall on the Site before operation of the use to the satisfaction of the Director of Planning or of the Town Planning Board; and

- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) is not complied with before operation of the use, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are attached at **Annex N**.

- 8.3 Alternatively, should the Board decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed petrol filling station is mainly located within an area zoned "Undetermined" which is being comprehensively reviewed. Approval of the application would pose an undue constraint to the future land use in the area.

9. Decision Sought

- 9.1 The Board is invited to consider the application for review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to approve the review application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 9.3 Alternatively, should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

10. Attachments

Annex A	RNTPC Paper No. A/YL-NSW/250
Annex B	Extract of minutes of the RNTPC meeting held on 28.4.2017
Annex C	Secretary of the Board's letter dated 12.5.2017
Annex D	FI received dated 31.5.2017 from the applicant's representative applying for review of the application
Annex E	Letter dated 18.10.2017 providing further justifications and supporting technical assessments including revised EA, revised TIA, Landscape Proposal, and Layout showing the proposed realigned cycle track
Annex F	FI received dated 13.2.2018 providing response to departments' comments and an updated TIA
Annex G	FI received dated 27.4.2018 providing response to

	departments' comments and an updated TIA
Annex H	FI received dated 4.6.2018 providing response to department's comments
Annex I	FI received on 28.8.2018 providing response to department's comments
Annex J	FI received on 3.10.2018 providing response to department's comments and updated TIA calculations
Annex K	FI received on 18.12.2018 providing response to department's comments
Annex L	FI received on 21.12.2018 providing response to department's comments
Annex M	Public Comments
Annex N	Recommended Advisory Clauses
Drawing R-1	Site Layout Plan
Drawing R-2	Site Layout Plan showing the proposed shifting of the cycle track
Drawing R-3	Compensatory and Landscape Proposal
Drawing R-4	Demarcation Plan indicating the Area under the Applicant's Management and Maintenance
Plan R-1a	Location Plan with Similar Applications
Plan R-1b	Location Plan with Previous Applications
Plan R-2a	Site Plan
Plan R-2b	Application Site and the Existing Cycle Track and Footpath
Plan R-3	Aerial Photos
Plans R-4a and R-4b	Site Photos
Plan R-5	Comparison of existing cycle track with proposed shifting of cycle track under s.17 stage

**PLANNING DEPARTMENT
DECEMBER 2018**