

RNTPC Paper No. A/KTN/34A
 For Consideration by the
 Rural and New Town Planning
Committee on 13.10.2017

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/34

Applicant	Zurich Limited
Site	Lots 744 and 749 in D.D.92 and Adjoining Government Land, Yin Kong, Sheung Shui, N. T.
Site Area	2,227 m ² (about) (including 103m ² of Government land)
Lease	Old Schedule Agricultural Lots governed by the Block Government Lease
Plan	Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2
Zoning	“Open Space” (“O”) (about 66.1%); “Other Specified Use” annotated “Nature Park” (“OU(Nature Park)”) (about 10.5%); and an area shown as ‘Road’ (about 23.4%)
Application	Temporary Warehouse of Industrial and Construction Materials with Ancillary Workshop for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse of industrial and construction materials with ancillary workshop for a period of 3 years at a site within an area partly zoned “O” (about 66.1%), “OU(Nature Park)” (about 10.5%) and an area shown as ‘Road’ (about 23.4%) (the Site) on the approved Kwu Tung North OZP No. S/KTN/2 (Plan A-1). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is the subject of 6 previous applications submitted by the same applicant for temporary warehouse (mainly for similar materials with or without workshops) approved between 2003 and 2016. The last application No. A/KTN/28 for the same applied use and submitted by the same applicant was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) on 14.9.2016. However, the planning permission was revoked on 18.2.2017 due to non-compliance with approval condition on the submission of fire service

installations (FSI) and water supplies for fire fighting proposal.

- 1.3 According to the applicant, the applied development comprises three one-storey structures for storage of industrial and construction materials with ancillary workshop and office. The total floor area is about 1098 m². One parking space for truck and one loading/unloading space are provided. The operation hour of the development is from 8:00 a.m. to 6:00 p.m., Monday to Saturday. There will be no operation on Sundays and statutory holidays. The Site is accessible by a local road leading from Castle Peak Road – Kwu Tung. The number of trucks goes in and out the Site is less than once a day. To support the application, the applicant also submitted the drainage proposal, FSI proposal and the information of landscape provision (**Appendix I and Ia**). The layout plan submitted by the applicant is at **Drawing A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 28.4.2017 (**Appendix I**)
 - (b) Supplementary information received on 5.5.2017 (**Appendix Ia**)
 - (c) Further information (FI) received on 26.5.2017 providing clarification on the application for extension of time (EOT) of the previous application No. A/KTN/28 (**Appendix Ib**)
(accepted and exempted from publication and recounting requirements)
 - (d) FI received on 14.8.2017 providing responses to the comments of Transport Department (TD) (**Appendix Ic**)
(accepted and exempted from publication and recounting requirements)
- 1.5 The application was originally scheduled for consideration by the Committee on 23.6.2017. On 23.6.2017, the Committee agreed to defer a decision on the application as requested by the applicant to allow time for the applicant to prepare FI to address departmental comments. On 14.8.2017, the FI submitted by the applicant was received. The application is rescheduled for consideration by the Committee at this meeting on 13.10.2017.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia, Ib and Ic**. They are summarized as follows:

- (a) The previous planning permission was revoked due to the non-compliance of approval condition on the submission of FSI and water supplies for fire fighting proposal. The FSI was not new which are checked and inspected regularly and annually by a certified fire engineer. The applicant had spent much time to locate the previous FSI plan and missed the deadline for compliance.
- (b) The applicant had submitted an application for extension of time limit (EOT) for compliance of the approval condition on FSI, but the Town Planning Board (the

Board) declined to consider the EOT application resulting in revocation of the previous permission¹.

- (c) The applicant has sought agreement from lot owners to use the local road leading to Castle Peak Road – Kwu Tung.
- (d) The number of trucks goes in and out the Site from Castle Peak Road and the local road is less than once a day so there is no reason of causing outside traffic impact. In order to save time and money, the applicant has to arrange a full load for every single delivery.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not a subject of any active enforcement case. Should there be sufficient evidence to prove that the use is an authorized development under the Town Planning Ordinance (the Ordinance), appropriate enforcement action will be taken.

5. Previous Applications

- 5.1 The Site is involved in 6 previous applications (Nos. A/NE-KTN/104, A/NE-KTN/112, A/NE-KTN/132, A/NE-KTN/148, A/KTN/6 and A/KTN/28) which were submitted by the same applicant. Details of the previous applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.
- 5.2 Application No. A/NE-KTN/104 for temporary warehouse of construction materials and ancillary workshop for a period of 3 years was approved by the Committee on 5.12.2003 on considerations that there was no programme for development of the area zoned “O” where the Site is located; most government departments consulted did not raise any objections to the application; the local concerns on potential traffic and environmental impacts could be addressed by incorporating relevant approval conditions in the planning permission; and temporary use of the Site for the applied use was not incompatible to the surrounding land uses. However, the approval for application No. A/NE-KTN/104 was revoked on 5.12.2004 due to non-compliance with approval conditions on the submission and implementation of landscaping proposals.

¹ The EOT application for compliance of approval condition (e) under the previous application No. A/KTN/28 was received on 8.2.2017, which was 8 working days before the expiry of the specified time limit for the approval condition (e) on 18.2.2017. The Board declined to consider the EOT application as there was insufficient time to consult the concerned government departments on the application which was essential for the consideration of the application.

- 5.3 Application No. A/NE-KTN/112 was a minor amendment to the approved application No. A/NE-KTN/104 with the same use at the same location. It was approved on 26.11.2004 under section 2(5)(b) of the Town Planning Ordinance, mainly on the ground that there was no change in planning considerations and that the proposed amendment to the site boundaries and area would not involve any increase in development intensity and cause adverse visual, traffic and environmental impacts to the area. The time period granted in the planning permission for application No. A/NE-KTN/112 (i.e. 3 years up to 5.12.2006) was the same as application No. A/NE-KTN/104. The applicant has complied with all the approved conditions for application No. A/NE-KTN/112.
- 5.4 Application No. A/NE-KTN/132 for temporary warehouse (excluding dangerous goods godown) for a period of 3 years was approved with conditions by the Committee on 13.3.2009 on the similar grounds as the previous case set out in paragraph 5.2. The planning permission was revoked on 13.9.2009 due to non-compliance of approval conditions in relation to the submission of vehicle run-in/out, parking and loading/unloading arrangements, the submission of a conditional survey with photographic records of the existing drainage facilities on site and the submission of tree preservation and landscaping proposals.
- 5.5 Application Nos. A/NE-KTN/148, A/KTN/6 and A/KTN/28 for application/renewal for temporary warehouse of industrial and construction materials with ancillary workshop for a period of 3 years (2 years for Application No. A/KTN/6) were approved with conditions by the Committee on 18.11.2011, 12.9.2014 and 14.9.2016 respectively on the similar grounds of the previous case and the temporary use of the Site would not pose a constraint to the development of the Kwu Tung North New Development Area (KTN NDA); the approval would not frustrate the long-term planning intentions of the zones on the OZP; and there is no adverse comment from government departments including TD. However, planning permission for application No. A/KTN/28 was revoked on 18.2.2017 due to non-compliance with approval condition on the submission of FSI and water supplies for fire fighting proposal. The current application is submitted by the same applicant for the same use.

6. Similar Application

There is one similar application for temporary cold store with ancillary storage and office for a period of 3 years (No. A/KTN/31) within/partly within the same "O" zone and area shown as 'Road' in the vicinity of the Site. It was approved with conditions by the Committee on 3.3.2017 on the considerations that the applied use at the site was not incompatible with the surrounding land uses; and the consulted Government departments had no objections/ adverse comments to the application. Details of the similar application are at Appendix III and its location is shown on Plan A-1.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2 and photos on Plans A-3, A-4a and A-4b)

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission; and
- (b) accessible from a local road leading from Castle Peak Road – Kwu Tung.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is Long Valley Nature Park with active agricultural land and some domestic structures;
- (b) to the east are some domestic structures, storage and open storage yards;
- (c) to the south are some warehouses and domestic structures and to the south-east are fallow agricultural land and the “Village” zone of Yin Kong Village; and
- (d) to its west are some warehouses, logistics centres and domestic structures.

8. **Planning Intentions**

- 8.1 The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.
- 8.2 The planning intention of the “OU(Nature Park)” zone is primarily for the development of a nature park to protect and enhance existing wetland habitats for the benefit of the local ecology and promotion of nature conservation and education. The primary intention is to discourage new development unless it is required to support the conservation of the ecological integrity of the wetland habitats or the development of an essential infrastructure project with overriding public interest.

9. **Comments from Relevant Government Departments**

- 9.1 The following government departments have been consulted and their views on the application and/or the public comment received are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/ North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots, namely Lots. Nos. 744 and 749 in D.D. 92 (the Lots) and the adjoining Government Land. The Lots are Old

Schedule agricultural lots held under the Block Government Lease, and covered by Short Term Waiver (STW) No. 1018 for the purposes of a factory for manufacturing of rattan products and a timber yard;

- (b) a portion of Government land within the Site is covered by Short Term Tenancy (STT) No. 784 for the purpose of open storage of rattan whereupon no structure should be erected;
- (c) the actual occupation area does not tally with the Site under application. It was noted that portions of the adjoining Lots Nos. 746 and 747 in D.D. 92, which are covered by STW No. 945, are being occupied by the applicant. Moreover, it is noted that the total built-over area of the structures erected on the Lots and the adjoining Government land is larger than the proposed development schedule mentioned in the planning application. The unauthorized structures are not acceptable with reference to the terms and conditions of STW No. 1018 and STT No. 784. His office reserves the right to take necessary enforcement actions against the irregularities;
- (d) it was noted that the proposed vehicular access leading to the Site will pass through various lots in the vicinity, and portion of the area covered by STT No. 573. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangements;
- (e) the Site falls within the resumption boundary of Civil Engineering and Development Department (CEDD)'s project namely "First Stage of Site Formation and Engineering Infrastructure at Kwu Tung North and Fanling North New Development Areas (Road Works)"; and
- (f) applications for modification of the terms and conditions of STW No. 1018 and STT No. 784 are being handled by his office, if the planning application is approved, the applications will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the applications are approved, their commencement date(s) will be backdated to the first date of occupation and subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) in view of recent traffic conditions in the North District during peak hours, the applicant is requested to provide the following transport-related information for his further consideration. He cannot offer his support to the application at this stage;

- (i) the applicant advised that the traffic generation and attraction of the application are low. However, the applicant's assessment does not consider the existing traffic conditions on the road in the North District. The applicant shall consider conducting a comprehensive traffic impact assessment to demonstrate the traffic impacts of the application on the existing road in the North District are acceptable;
 - (ii) the applicant is required to provide information on the location and width of the proposed vehicular access on the plan, and demonstrate the satisfactory manoeuvring of vehicles entering and exiting the Site without reversing on the local roads by swept path analysis; and
- (b) Yin Kong Road and the unnamed local track is not under Transport Department's management. In this regard, the land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comment of the Commissioner of the Police (C of P):

- (a) in view of the scale of the temporary warehouse, the Police has concern over the impact on traffic flow and the potential problem of vehicle obstruction brought by this application; and
- (b) there is no reported noise complaint in the area but the applied use may raise possible concern to local resident.

Future Development

9.1.4 Comments of the Project Manager/New Territories East, CEDD (PM/NTE, CEDD):

the Site partly falls within the boundary of First Stage Works of KTN NDA² (Plan A-5) which are scheduled for commencement by end 2018. He has reservation on the application for temporary use of 3 years. Instead, he has no comment on the temporary use for a period of 1 year and presumably the approval period would end by end-2018.

9.1.5 Comments of the Chief Estate Surveyor/Acquisition, Lands Department (CES/A, LandsD):

- (a) the northern part of the Site encroaches on the resumption limits of

² About 33.9% (756 sqm) of the Site falls within the boundary of First Stage Works of KTN NDA, and the remaining 66.1% (1,471 sqm) falls within the boundary of Remaining Works Packages.

CEDD's projects, namely "PWP Item No. 7759CL – First Stage of Site Formation and Engineering Infrastructure at KTN NDA and Fanling North NDA (Road Works)" and "PWP Item No. 7759CL – First Stage Works for Development at KTN NDA and Fanling North NDA" (Plan A-5). The Plan and Scheme of the former was gazetted on 31.12.2015 under section 8(2) of Cap 370 as amended under section 7 of the said Ordinance on 18.11.2016; and

- (b) he has no comment on the application, as long as the applicant will be advised that the Site might be subject to land resumption at any time before expiry of the planning permission should the application be approved. The programme of resumption of land would not be disturbed even if the planning permission is granted for 3 years.

Environment

9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there are sensitive uses in the vicinity of the Site (the nearest domestic structures are in the immediate north, south, south-east, west and north-west of the Site). Environmental nuisance to nearby residents is anticipated;
- (b) there was no environmental complaint case related to the Site in the past 3 years; and
- (c) the applicant is advised to follow the environmental mitigation measures as recommended in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the potential environmental impacts on the adjacent area.

Landscape

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

- (a) he has no objection to the application from the landscape planning perspective;
- (b) the Site is the subject of a previous application No. A/KTN/28 to which he had no objection from the landscape planning perspective and the previous landscape condition on submission and implementation has been complied with; and
- (c) according to the submitted existing tree photo record, the trees implemented under previous approval condition are in acceptable condition. In view of the above, should the Board approve the application, he would recommend the inclusion of approval condition

to maintain all existing trees in healthy condition throughout the approval period in the permission.

Drainage

9.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no in-principle objection to the application;
- (b) as the existing drainage proposal was implemented over a decade ago, should the application be approved, submission and implementation of drainage proposal is required; and
- (c) the drainage proposal should be supplemented with:
 - (i) the ground level of the Site, the invert levels of the existing/proposed surface channels, catchpits and sand trap, the routes and the condition of the drainage downstream of the sand trap to the discharge points near Sheung Yue River should be shown on the drainage proposal; and
 - (ii) record photos should be provided showing the current conditions of all existing channels, drains, catchpits/sand traps and the drainage downstream of the sand trap to the discharge points near Sheung Yue River.

Building Matters

9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) the Temporary Building Permit No. NT 9/88 for the two warehouses at the subject lots issued by the Building Authority has expired on 16.7.2000 (i.e. 17 years ago). The owner should enlist an Authorized Person (AP) to apply for the renewal. The owner is also reminded that the temporary buildings shall be removed as they are Unauthorized Building Works (UBW);
- (b) there is no record of approval by the Building Authority for the remaining existing zinc cover structure at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (c) the advisory comments are at **Appendix V**.

Natural Conservation

9.1.10 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) he has no adverse comment on the application from nature conservation point of view, noting that the Site has already been used for the applied use; and
- (b) the future Long Valley Nature Park in the "OU(Nature Park)" zone will be constructed under a CEDD project.

Fire Safety

9.1.11 Comments of the Director of Fire Services (DFS):

- (a) he has no in-principle objection to the application subject to FSI and water supplies for firefighting being provided to the satisfaction of the Fire Services Department. Emergency vehicular access (EVA) arrangement shall comply with Section 6. Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

9.1.12 Comments of the Chief Engineer/Construction Session, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application;
- (b) existing water mains located on the footpath accessible by the public will be affected. A waterworks reserve within 1.5m from the centreline of the water main shall be provided to WSD. No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes. 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. If not, the applicant shall bear the cost of the diversion works; and
- (c) the Site is within flood pumping gathering grounds.

District Officer's Comments

9.1.13 Comment of the District Officer/North, Home Affairs Department (DO/N, HAD):

he has consulted the locals from 19.5.2017 to 31.5.2017. The North District Council (NDC) member of the subject Constituency, the Chairman of Sheung Shui Rural Committee (SSDRC), the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Yin Kong raised objections to the application mainly on the grounds that the applied warehouse may create adverse traffic and environmental impacts to the area; large vehicles may endanger local residents; and the applied warehouse may also create adverse impacts to the nearby organic farming. The RR of Kwu Tung (North) had no comment on the application.

9.2 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Head of Geotechnical Engineering Office, CEDD;
- (c) Director of Leisure and Cultural Services; and
- (d) Director of Electrical and Mechanical Services (his advisory comments are at Appendix V).

10. Public Comments Received During Statutory Publication Period

On 9.5.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 31.5.2017, 4 public comments on the application were received (**Appendices IVa to IVd**). One commenter has no comment on the application. The remaining 3 commenters from one North District Council member and 2 members of the general public object to the applications mainly on the grounds that:

- (a) the applied warehouse with large vehicle traffic would cause adverse traffic impact, endanger local residents, and create nuisance to the nearby villagers;
- (b) the applied warehouse would cause adverse impact to the nearby organic farming; and
- (c) the applied warehouse is not in line with the planning intentions and the brownfield use should be phased out and that storage should be accommodated in purpose-built high rise facilities.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse of industrial and construction materials with ancillary workshop for a period of 3 years. The Site falls within an area zoned "O", "OU(Nature Park)" and an area shown as 'Road' on the approved Kwu Tung

North OZP (Plan A-1). The applied development is not in line with the planning intention of "O" and "OU(Nature Park)" zones and area shown as 'Road'. The northeastern part of Site (i.e. "OU(Nature Park)" and 'Road') is within the boundaries of the First and Advance Works Package of the KTN NDA. PM/NTE, CEDD has reservation on the temporary approval for the subject application with a period of 3 years as the site formation works for the First and Advance Works Package are scheduled for commencement by end 2018. However, CES/A, LandsD has no comment on the application, as long as the applicant will be advised that the Site might be subject to land resumption at any time before expiry of the planning permission. The land resumption programme of the KTN NDA would not be disturbed even if the planning permission is granted for 3 years. In view of the above, approval of the application on a temporary basis would not jeopardize the long-term development of the concerned zonings on the OZP.

- 11.2 The applied development is not incompatible with the existing surrounding land uses which comprise mainly warehouses, vehicle parks, open storage yards and fallow agricultural land intermixed with some domestic structures. However, the applicant has failed to demonstrate in the submission that the temporary use under application will not cause adverse traffic impact on the surrounding area. C for T cannot offer his support to the application as the applicant's assessment does not consider the recent traffic conditions on the road in the North District. C for T considers that the applicant shall consider conducting a comprehensive traffic impact assessment to demonstrate the traffic impacts of the application on the existing road in the North District are acceptable. Besides, further information on the proposed vehicular access and manoeuvring of vehicles entering and exiting the Site are required. C of P has concern over the impact on traffic flow and the potential problem of vehicle obstruction brought by the application. DEP also does not support the application as there are sensitive uses in the vicinity of the Site. Other concerned government departments including CTP/UD&L, PlanD, DAFC, CE/MN, DSD and CHE/NTE, HyD have no adverse comment on or no objection to the application.
- 11.3 The Site is involved in six previous applications, all for warehouse uses approved (Plan A-1) mainly on considerations that the applied use was not incompatible to the surrounding land uses; the local concerns on potential traffic and environmental impacts could be addressed by incorporating relevant approval conditions in the planning permission; the temporary use of the Site would not pose as a constraint to the development of the KTN NDA; and there was no adverse comment from government departments including TD. The previous planning permission for application No. A/KTN/28 was revoked on 18.2.2017 due to non-compliance with approval condition on the submission of FSI and water supplies for fire fighting proposal. To support this application, the applicant had submitted the drainage proposal, FSI proposal and the information of landscape provision (Appendix I and Ia). However, for the subject application, in view of recent traffic conditions in the North District during peak hours, TD cannot offer support to the application without a comprehensive traffic impact assessment provided by the applicant on the traffic impact arising from the development. The planning circumstance of the subject application is different from the previous approved applications.
- 11.4 There are 4 local objections as conveyed by DO(N) and 3 public comments objecting

to the application mainly on the grounds that the applied warehouse is not in line with the planning intentions; the applied warehouse would create adverse traffic and environmental impacts to the area and nuisance to nearby villagers and residents; and the applied use may also create adverse impacts to the nearby organic farming as mentioned in paragraphs 9.1.13 and 10 above. Relevant government departments' comments and planning considerations set out in paragraphs 11.1 and 11.2 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments in paragraphs 9.1.13 and 10, the Planning Department does not support the application for the following reason:

the applicant fails to demonstrate that the applied development would not cause adverse traffic impact on its surrounding areas and the North District.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 13.10.2020. The following conditions of approval with shorter compliance period and advisory clauses are also suggested for Member's reference:

Approval conditions

- (a) no operation between 6 p.m. and 8 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and statutory holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) all existing trees on the application site shall be maintained in healthy condition during the planning approval period;
- (d) the submission of a drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.1.2018;
- (e) in relation to (d) above, the implementation of the drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.4.2018;
- (f) the submission of fire service installations and water supplies for fire fighting proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.1.2018;
- (g) in relation to (f) above, the implementation of fire service installations and water supplies for fire fighting proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town

Planning Board by **13.4.2018**;

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

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form received on 28.4.2017
Appendix Ia	Supplementary information received on 5.5.2017
Appendix Ib	FI received on 26.5.2017
Appendix Ic	FI received on 14.8.2017
Appendix II	Previous Applications
Appendix III	Similar Application in the vicinity of the Site
Appendices IVa to IVd	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos
Plan A-5	Development Phasing Plan of KTN NDA

Previous Applications

Approved Applications

Application No.	Proposed Use(s)/Development(s)	Date of Consideration	Approval Conditions
A/NE-KTN/104	Temporary Warehouse of Construction Materials and Ancillary Workshop for a Period of 3 Years	05.12.2003 [revoked on 05.12.2004]	A1, A2, A3, A4 & A5
A/NE-KTN/112	Minor Amendments to an Approved Development Proposal for Temporary Warehouse of Construction Materials and Ancillary Workshop for a Period of 3 Years	26.11.2004 (approved by DPO/STN, PlanD)	A1, A3 & A5
A/NE-KTN/132	Temporary Warehouse (excluding Dangerous Goods Godown) for a Period of 3 Years	13.03.2009 [revoked on 13.09.2009]	A1, A2, A5, A6, A7, A8, A9 & A10
A/NE-KTN/148	Temporary Warehouse of Industrial and Construction Materials and Ancillary Workshop for a Period of 3 Years	18.11.2011	A5, A7, A8, A10, A11, A12 & A13
A/KTN/6	Renewal of Planning Approval for Temporary Warehouse of Industrial and Construction Materials and Ancillary Workshop for a Period of 3 Years	12.09.2014 (Approved for two years until 18.11.2016)	A5, A7, A8, A10, A11, A12 & A13
A/KTN/28	Renewal of Planning Approval for Temporary Warehouse of Industrial and Construction Materials and Ancillary Workshop for a Period of 3 Years	14.09.2016 [revoked on 18.02.2017]	A11, A12, A14, A15 & A16

Approved Conditions

- A1 No heavy goods vehicle and container trucks was allowed to access to/from the application site along the access road leading from Castle Peak Road
- A2 The submission of proposals on & provision of vehicular run-in/run-out, parking and loading/unloading arrangement
- A3 The submission and implementation of landscape proposals
- A4 The submission of drainage proposals and the provision of drainage facilities
- A5 Revocation clause
- A6 No heavy good vehicles or container trucks were allowed for transportation of goods to/from the application site
- A7 To maintain the existing drainage facilities properly and rectify those facilities if they were found inadequate/ineffective
- A8 To maintain all existing fire service installations and equipment/ To maintain all existing fire service installations and equipment in an efficient working order
- A9 The submission of a condition survey with with photographic records of the existing drainage facilities on site as previously implemented on the same site for the previously approved application No. A/NE-KTN/104
- A10 The submission and implementation of tree preservation and landscape proposals
- A11 No operation between 6 p.m. and 8 p.m., as proposed by the applicant, was allowed on the application site
- A12 No operation on Sundays and public holidays, as proposed by the applicant, was allowed on the application site
- A13 The submission of a conditional survey with photographic records of the existing drainage facilities on site
- A14 To maintain the existing drainage facilities, whether within or outside the lot boundary, properly and rectify those facilities if they are found inadequate/ineffective by the applicant at all times
- A15 The submission of fire service installations and water supplies for fire fighting proposal
- A16 The implementation of fire service installations and water supplies for fire fighting proposal

Appendix III of
RNTPC Paper No. A/KTN/34A

Similar Application within the "O" Zone , "OU" Zone or area shown as 'Road'
in the vicinity of the Site on Approved Kwu Tung North Outline Zoning Plan No. S/KTN/2

Approved Application

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Approval Conditions</u>
1	A/KTN/31	Temporary Cold Store with Ancillary Storage and Office for a Period of 3 Years	03.03.2017	A1 – A7

Approved Conditions

- A1 No operation between 6 p.m. and 9 a.m., as proposed by the applicant, is allowed on the site
- A2 No operation on Sundays and public holidays, as proposed by the applicant, is allowed on the site
- A3 No medium/heavy goods vehicle exceeding 5.5 tones, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/exit the site at any time
- A4 The submission and implementation of a drainage proposal
- A5 The submission and implementation of a landscape proposal
- A6 The submission and implementation of a proposal for fire service installations and water supplies for fire-fighting
- A7 Revocation clause

Advisory clauses

- ~~(a) the permission is given to the use / development under application. It does not condone~~
any other use / development which currently exists on the Site but not covered by the application. The applicant should be requested to take immediate action to discontinue such use / development not covered by the permission;
- (b) shorter compliance periods for approval conditions are imposed to monitor the progress of the compliance with the approval conditions. Should the applicant fails to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given by the Committee to any further application;
- (c) to note the comments of the Chief Estate Surveyor/Acquisition, Lands Department that the Site might be subject to land resumption at any time before expiry of the planning permission;
- (d) to note the comments of the District Lands Officer/North, Lands Department that:
- (i) the Site comprises private lots, namely Lots. Nos. 744 and 749 in D.D. 92 (the Lots) and the adjoining Government Land. The Lots are Old Schedule agricultural lots held under the Block Government Lease, and covered by Short Term Waiver (STW) No. 1018 for the purposes of a factory for manufacturing of rattan products and a timber yard;
 - (ii) a portion of Government land within the Site is covered by Short Term Tenancy (STT) No. 784 for the purpose of open storage of rattan whereupon no structure should be erected;
 - (iii) the actual occupation area does not tally with the Site. It was noted that portions of the adjoining Lots Nos. 746 and 747 in D.D. 92, which are covered by STW No. 945, are being occupied by the applicant. Moreover, it is noted that the total built-over area of the structures erected on the Lots and the adjoining Government land is larger than the proposed development schedule mentioned in the planning application. The unauthorized structures are not acceptable with reference to the terms and conditions of STW No. 1018 and STT No. 784. His office reserves the right to take necessary enforcement actions against the irregularities;
 - (iv) it was noted that the proposed vehicular access leading to the Site will pass through various lots in the vicinity, and portion of the area covered by STT No. 573. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangements;
 - (v) the Site falls within the resumption boundary of CEDD's project namely "First Stage of Site Formation and Engineering Infrastructure at Kwu Tung North and Fanling North New Development Areas (Road Works)"; and
 - (vi) applications for modification of the terms and conditions of STW No. 1018 and STT No. 784 are being handled by his office. They will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the applications are approved, their commencement date(s) will be

backdated to the first date of occupation and subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office;

- (e) to note the comments of the Commissioner for Transport that Yin Kong Road and the unnamed local track is not under Transport Department's management. In this regard, the land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;
- (f) to note the comments of the Director of Environmental Protection that the environmental mitigation measures as recommended in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' should be followed in order to minimize the potential environmental impacts on the adjacent area;
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the drainage proposal should be supplemented with:
 - (i) the ground level of the Site, the invert levels of the existing/proposed surface channels, catchpits, and sand trap, the routes and the condition of the drainage downstream of the sand trap to the discharge points near Sheung Yue River should be shown on the drainage proposal; and
 - (ii) record photos should be provided showing the current conditions of all existing channels, drains, caterpits/sand traps and the drainage downstream of the sand trap to the discharge points near Sheung Yue River;
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
 - (i) the Temporary Building Permit No. NT 9/88 for the two warehouses at the subject lots issued by the Building Authority has expired on 16.7.2000 (i.e. 17 years ago). The owner should enlist an Authorized Person (AP) to apply for the renewal. The owner is also reminded that the temporary buildings shall be removed as they are Unauthorized Building Works (UBW);
 - (ii) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Building Ordinance (BO) and should not be designated for any approved use under the application;
 - (iii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An AP should be appointed as the co-ordinator for the proposed building works in according with the BO;
 - (iv) for UBW erected on leased land, enforcement action may be taken by the BD 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 is 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) in connection with (iii) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41 D of the Building (Planning) Regulations respectively;
- (vii) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage;
- (i) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that existing water mains located on the footpath accessible by the public will be affected. A waterworks reserve within 1.5m from the centreline of the water main shall be provided to WSD. No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes. 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. If not, the applicant shall bear the cost of the diversion works; and
- (j) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the 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 in the vicinity of the of the concerned 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.

[Ms S.H. Lam, Ms Ivy C.W. Wong and Ms Emily P.W. Tong, Senior Town Planners/Fanling, Sheung Shui and Yuen Long East (STPs/FSYLE), were invited to the meeting at this point.]

Agenda Item 21

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/KTN/34 Temporary Warehouse of Industrial and Construction Materials and Ancillary Workshop for a Period of 3 Years in “Open Space” and “Other Specified Uses” annotated “Nature Park” Zones and an area shown as ‘Road’, Lots 744 and 749 in D.D. 92 and Adjoining Government Land, Yin Kong, Sheung Shui
(RNTPC Paper No. A/KTN/34A)

Presentation and Question Sessions

107. Ms S.H. Lam, STP/FSYLE, drew Members’ attention that the Secretariat received further information (FI) from the applicant providing responses to comments raised by the Commissioner for Transport (C for T) and the FI was tabled at the meeting for Members’ information. She then presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the temporary warehouse of industrial and construction materials with ancillary workshop for a period of 3 years;
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. C for T did not support the application as the applicant’s assessment had not considered the existing traffic conditions in the North District and considered that the applicant should conduct a comprehensive traffic impact assessment (TIA) to demonstrate the

acceptability of the traffic impacts of the application on the existing roads in North District. The Project Manager/ New Territories East, Civil Engineering and Development Department (PM/NTE, CEDD) had reservation on the application for temporary use of three years as the site partly fell within the boundary of the First Stage Works of Kwu Tung North New Development Area (NDA), but had no comment on such use for a period of one year. The Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity and environmental nuisance to nearby residents was anticipated. The Commissioner of Police had concern over the traffic flow and the potential problem of vehicle obstruction brought by the application;

- (d) during the first three weeks of the statutory publication period, four public comments were received, including one with no comment on the application, and the remaining three from one North District Council member and two individuals objecting to the application. Major objection grounds were set out in paragraph 10 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. While the applied development was not incompatible with the existing surrounding land uses comprising mainly warehouses, vehicle parks and open storage yards intermixed with fallow agricultural land and some domestic structures and that approval of the application on a temporary basis would not jeopardize the long term development of the zoned uses on the OZP, the applicant had failed to demonstrate that the applied temporary uses would not cause adverse traffic impact on the surrounding areas and the North District. Regarding the adverse public comments, the comments of government departments and planning assessments above were relevant.

108. Members had no question on the application.

Deliberation Session

109. Noting C for T's comments on the application, a Member enquired on the amount of information required to substantiate the applied use. In response, Mr Patrick K.H. Ho, Chief Traffic Engineer/New Territories West, Transport Department (TD) said that according to the applicant, the number of trucks went in and out of the site was less than once a day. Further details were required from the applicant to justify the said number of vehicular trip and demonstrate that the proposed development would not bring about adverse traffic impact.

110. After deliberation, the Committee decided to reject the application. The reason was:

“the applicant fails to demonstrate that the applied development would not cause adverse traffic impact on its surrounding areas and the North District.”

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

By Registered Post

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/KTN/34

27 October 2017

Zurich Ltd.

Kowloon
(Attn.: C.M. Li)

Dear Sir/Madam,

Temporary Warehouse of Industrial and Construction Materials and Ancillary Workshop for a Period of 3 Years in "Open Space" and "Other Specified Uses" annotated "Nature Park" Zones and an area shown as 'Road', Lots 744 and 749 in D.D. 92 and Adjoining Government Land, Yin Kong, Sheung Shui

I refer to my letter to you dated 16.8.2017.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reason is:

- you fail to demonstrate that the applied development would not cause adverse traffic impact on its surrounding areas and the North District.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 13.10.2017 are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 17.11.2017). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. S.H. Lam of Fanling, Sheung Shui & Yuen Long East District Planning Office at 2158 6138.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

Advisory Clauses

- (a) the permission is given to the use/development under application. It does not condone any other use/development which currently exists on the Site but not covered by the application. The applicant should be requested to take immediate action to discontinue such use/ development not covered by the permission;
- (b) shorter compliance periods for approval conditions are imposed to monitor the progress of the compliance with the approval conditions. Should the applicant fails to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given by the RNTPC to any further application;
- (c) to note the comments of the Commissioner for Transport that the applicant should endeavor to restrict the traffic generation during off-peak hours (i.e. 10:00 a.m. to 4:00 p.m.);
- (d) to note the comments of the Chief Estate Surveyor/Acquisition, Lands Department that the Site might be subject to land resumption at any time before expiry of the planning permission;
- (e) to note the comments of the District Lands Officer/North, Lands Department that:
 - (i) the Site comprises private lots, namely Lots. Nos. 744 and 749 in D.D. 92 (the Lots) and the adjoining Government Land. The Lots are Old Schedule agricultural lots held under the Block Government Lease, and covered by Short Term Waiver (STW) No. 1018 for the purposes of a factory for manufacturing of rattan products and a timber yard;
 - (ii) a portion of Government land within the Site is covered by Short Term Tenancy (STT) No. 784 for the purpose of open storage of rattan whereupon no structure should be erected;
 - (iii) the actual occupation area does not tally with the Site. It was noted that portions of the adjoining Lots Nos. 746 and 747 in D.D. 92, which are covered by STW No. 945, are being occupied by the applicant. Moreover, it is noted that the total built-over area of the structures erected on the Lots and the adjoining Government land is larger than the proposed development schedule mentioned in the planning application. The unauthorized structures are not acceptable with reference to the terms and conditions of STW No. 1018 and STT No. 784. His office reserves the right to take necessary enforcement actions against the irregularities;
 - (iv) it was noted that the vehicular access leading to the Site pass

through various lots in the vicinity, and portion of the area covered by STT No. 573. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangements;

- (v) the Site falls within the resumption boundary of CEDD's project namely "First Stage of Site Formation and Engineering Infrastructure at Kwu Tung North and Fanling North New Development Areas (Road Works)"; and
- (vi) applications for modification of the terms and conditions of STW No. 1018 and STT No. 784 are being handled by his office. They will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the applications are approved, their commencement date(s) will be backdated to the first date of occupation and subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office;
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 - (i) the ground level of the Site, the invert levels of the existing/proposed surface channels, catchpits, and sand trap, the routes and the condition of the drainage downstream of the sand trap to the discharge points near Sheung Yue River should be shown on the drainage proposal; and
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- (ii) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Building Ordinance (BO) and should not be designated for any approved use under the application;
 - (iii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are UBW. An AP should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iv) for UBW erected on leased land, enforcement action may be taken by the BD 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 is 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) in connection with (iii) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41 D of the Building (Planning) Regulations respectively;
 - (vii) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage; and
- (i) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the 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 in the vicinity of the concerned 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.

