

RNTPC Paper No. A/NE-FTA/184
For Consideration by the
Rural and New Town Planning
Committee on 1.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/184

- Applicant** : Oriental One Limited
- Site** : Lots 558 RP (Part), 559 RP (Part), 561 RP (Part), 562 S.F (Part), 563 (Part) and 564 S.B (Part) in D.D. 89, Sha Ling, Sheung Shui, New Territories
- Site Area** : 4,131 m² (about)
- Land Leases** : 1) Block Government Lease (demised for agricultural use) for Lots 558 RP (Part), 559 RP (Part), 561 RP (Part), 563 (Part) and 564 S.B (Part) in D.D. 89
2) Block Government lease (demised for agricultural and house use) for Lot 562 S.F (Part) in D.D. 89
- Plan** : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Public Vehicle Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park for a period of three years (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16. According to the Notes of the OZP, temporary uses not exceeding a period of three years within “AGR” zone require planning permission from the Board notwithstanding that the uses are not provided under the Notes of the OZP. The Site is currently used for the applied use without a valid planning permission.
- 1.2 According to the applicant, the development under application comprises a one-storey structure (about 2.6 m in height) with a total floor area of about 20 m² for a site office erected along the north-eastern boundary of the Site. 32 private car parking spaces (measuring 5 m x 2.5 m each) are located at the west and southwest parts of the Site. 8 light goods vehicle parking spaces (measuring 7 m x 3.5 m each) are located along the eastern boundary of the Site. The ingress/egress point is located at the northern part of the Site. The uncovered area is mainly for maneuvering of vehicles. The Site is accessible via a local track leading to Man Kam To Road. The proposed operation

hours are from 7:00 a.m. to 11:30 p.m. from Mondays to Sundays including public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of two previous applications (**Plan A-1**) (No. A/NE-FTA/159 and 174) for temporary parking of container tractors and trailers for sale with ancillary office and temporary vehicle repair workshop for medium goods vehicle, heavy goods vehicle, coach and container tractor submitted by different applicants from the current application. Both applications were rejected by the Rural and New Town Planning Committee (the Committee) in October 2016 and July 2017 respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Attachments received on 4.4.2018 (**Appendix I**)
 - (b) Planning Statement received on 4.4.2018 (**Appendix Ia**)
 - (c) Supplementary Information received on 6.4.2018 (**Appendix Ib**)
 - (d) Supplementary Information received on 11.4.2018 (**Appendix Ic**)
 - (e) Further Information received on 15.5.2018 (**Appendix Id**)
 - (f) Further Information received on 18.5.2018 (**Appendix Ie**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 3 of the planning statement at **Appendix Ia**. They can be summarised as follows:

- (a) the Site is within five minutes walking distance from Lo Wu Village where public transport services are limited and the number of parking spaces is insufficient. The proposed development can meet the villagers' needs of parking spaces;
- (b) the Site is in the vicinity of the border and the proposed development will only serve the needs of local villagers. The proposed development will not cause adverse impacts to the surrounding area;
- (c) the proposed development can alleviate traffic problems by providing legal parking spaces with improved security and accommodating the parking needs of additional vehicles during festival periods;
- (d) the Site is suitable for the proposed development since it has been paved with provision of utilities. Relevant proposals on landscape, drainage and environmental mitigation are attached with the application (**Appendix Ia**);
- (e) there is no legal parking provided in the vicinity of the Site and the Government has no proposal for such development; and
- (f) should the application be approved, the Planning Department can still monitor whether the development would have adverse impacts on the surrounding area and revoke the planning permission if any non-compliance of the relevant approval conditions. The applicant undertakes to reinstate the land after the planning approval is lapsed.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and giving notification to the Sheung Shui District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site forms part of an active enforcement case (**Plan A-2**) for parking of vehicles and storage use (including deposit of containers). Enforcement Notice was issued on 15.6.2017 requiring the concerned owners to discontinue the unauthorised development. Compliance Notice was issued on 13.12.2017 as the unauthorised development was discontinued. On 15.12.2017, a Reinstatement Notice was issued requiring the concerned owners to remove all fill materials and grass the Site by 15.3.2018. The case is being monitored according to the established procedures.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (**Plan A-1**) (No. A/NE-FTA/159 and 174) for temporary parking of container tractors and trailers for sale with ancillary office and temporary vehicle repair workshop for medium goods vehicle, heavy goods vehicle, coach and container tractor submitted by different applicants from the current application. Both applications were rejected by the Committee in October 2016 and July 2017 respectively mainly on the considerations that the proposed developments were not in line with the planning intention of the “AGR” zone; the applications did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13E) in that the proposed developments were not compatible with the surrounding land uses; there was no previous planning approval; there were adverse departmental comments; and the applicants failed to demonstrate that the proposed developments would not cause adverse traffic, environmental and landscape impacts on the surrounding areas; and the approval of the applications would set an undesirable precedent for similar applications within the same “AGR” zone.
- 5.2 Details of these previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

There is no similar application for temporary public vehicle park within the “AGR” zones in the vicinity of the Site in the Fu Tei Au and Sha Ling area.

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

7.1 The Site is:

- (a) accessible via a local track leading to Man Kam To Road (Plan A-2);
- (b) flat, formed, partly fenced off and covered with wild grass and trees along its boundary (Plans A-4a and A-4b); and
- (c) used for parking of vehicles as revealed by site inspection on 25.5.2018 without a valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northwest is a public toilet and Man Kam To Road across which are some water pipelines and some temporary domestic structures (Plan A-2);
- (b) to its northeast and east are some temporary domestic structures and a warehouse respectively, and to its southeast are mixed uses of an open storage of construction materials, vacant land, temporary domestic structures and storage uses; and
- (c) to the southwest and west are vacant land and some temporary domestic structures.

8. **Planning Intention**

The planning intention of the “AGR” zone in Fu Tei Au and Sha Ling area is to primarily retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. **Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) the Site comprises private lots. Lots 558 RP (Part), 559 RP (Part), 561 RP (Part), 563 (Part) and 564 S.B (Part) in D.D. 89 are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. Lot 562 S.F (Part) in D.D. 89 is Old Schedule lot held under the Block Government lease (demised for

agricultural and house use) without any guarantee of right of access;

- (b) the Government land along the north-western boundary of the Site will be affected by CEDD's project, namely "PWP Item No. 5758CL Site Formation and Associated Infrastructural works for development of Columbarium, Crematorium and Related Facilities at Sandy Ridge Cemetery – Widening of Sha Ling Road and Construction of Roads B and C". Meanwhile, the applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangements; and
- (c) if the application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be 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) he considers the application can be tolerated from traffic engineering viewpoint;
- (b) it is noted that the proposed vehicular access to the Site is via a local village track connecting Man Kam To Road. Vehicles can manoeuvre within the Site without reversing on the public road; and
- (c) the Site connects Man Kam To Road via a local village track which is not managed by the Transport Department.

9.1.3 Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) the section of Man Kam To Road adjacent to the Site is under HyD's maintenance purview. However, the vehicular access leading from Man Kam To Road to the Site falls on unallocated Government land which is outside HyD's maintenance purview. The applicant is required to sort out the maintenance responsibility of the affected unallocated Government land with DLO/N.

Environment

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

- (a) he does not support the application as there are domestic structures in the vicinity of the Site within 100 m of the site boundary, the closest ones are located to the immediate northeast at a distance of about 7 m (**Plan A-2**);

- (b) there were a total of six environmental complaints against the Site in the past three years. Five complaints (including four substantiated and one non-substantiated) relating to waste pollution and one substantiated complaint relating to suspected landfilling were received in 2016; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses”.

Landscape

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

- (a) she objects to the application from the landscape planning perspective;
- (b) compared the aerial photo of 2016 (under previous application No. A/NE-FTA/174) to latest photo of 2018 (**Plan A-3b**), there is no significant change in the rural landscape character comprising of tree clusters and woodland, domestic structures, open storages, government facilities and some active and fallow farmlands. Enforcement Notice was served to the Site in 2016 and then Reinstatement Notice was issued to the concerned parties but has not yet been complied with. There are quite a number of open storages in the area which are unauthorised developments and Enforcement Notices were served;
- (c) aerial photo of 1991 reveals that majority of the Site was once a fish pond and land/pond filling, dumping and site formation were noted. Her site record dated 23.4.2018 reveals that the Site is fenced off with patches of wild grasses along its boundary. Some areas are hard paved, container tractors and construction materials are found. Though currently there is no tree within the Site but she found that about 30 trees noted at her first site visit in 2015 were removed (**Plan A-3a**). Although no significant adverse impact on the landscape resource arising from the proposed use is anticipated, approval of the application would encourage similar “development first and application later” cases. These piecemeal developments will lead to cumulative adverse impact causing gradual degradation of the landscape resources and change of landscape character in the area; and
- (d) should the application be approved by the Board, an approval condition on the submission and implementation of landscape proposal is recommended.

Drainage

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

- (a) he has no in-principle objection to the application from the public

drainage point of view;

- (b) the Site is in an area where no public sewer connection is available;
- (c) should the application be approved, an approval condition on the submission and implementation of drainage proposal is recommended to ensure that it will not cause adverse impact to the adjacent area; and
- (d) the general requirements in the drainage proposal are appended in **Appendix III**.

Building Matters

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

- (a) there is no record of submission of the proposed temporary structures to the Building Authority for approval and the BD is not in a position to offer comments on their suitability for the use related to the application;
- (b) the proposed temporary building/structure is subject to the control of Part VII of the Building (Planning) Regulations. The proposed drainage works shall comply with Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations. Both the building works and drainage works require prior approval and consent under the Buildings Ordinance (BO); and
- (c) the applicant should be reminded of the followings:
 - (i) 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 BO and should not be designated for any approved use under the application;
 - (ii) 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 Unauthorized Buildings Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
 - (iii) for UBW erected on leased land, enforcement action may be taken by 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;
 - (iv) if the proposed use under application is subject to the issue of a licence, please 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;

- (v) in connection with the above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations respectively;
- (vi) 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 B(P)Rs at the building plan submission stage; and
- (vii) detailed comments under the BO will be provided at the building plan submission stage.

Agriculture

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

- (a) she does not support the application from agriculture point of view; and
- (b) the Site is a paved vehicle park. Agricultural infrastructures such as water supply and road access are available. The Site can be used as greenhouse cultivation or plant nursery. The Site possesses potential for agricultural rehabilitation.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

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

Water Supply

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

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as

private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

District Officer's Comments

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The incumbent North District Council (NDC) member of the subject constituency, the Resident Representative of San Uk Ling and the Resident Representative of Lo Wu had no comment on the application. The Ta Kwu Ling District Rural Committee, 打鼓嶺沙嶺村居民福利會 (with 50 signatures from the Sha Ling villagers) and the Indigenous Inhabitant Representative of San Uk Ling object to the application on the grounds that the proposed development is not line with the planning intention of "AGR" zone; the proposed development would create nuisances and safety issues to villagers; the proposed development is an example of "destroy first, develop later" since site formation work has been carried out prior to obtaining planning permission; there are enough parking space to meet the needs of local villagers; and the Man Kam To Road is congested and there is no capacity for development of vehicle park.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Director of Electrical and Mechanical Services (DEMS).

10. Public Comments Received During Statutory Publication Period

On 13.4.2018, the application was published for public inspection. During the statutory public inspection period, 126 public comments were received (**Appendix IV**). A NDC Member and the Chairman of Sheung Shui District Rural Committee indicate no comment on the application. One comment from 打鼓嶺沙嶺村居民福利會 (with 40 signatures from the Sha Ling villagers) raising objection to the application is the same as that conveyed by DO/N. One public comment submitted by the descendants of "Tso Tong" (祖堂) objects to the application mainly on the grounds that the applicant illegally occupies the Site including Lots 563 and 559 RP in D.D. 89 owned by the "Tso Tong" without seeking consents from them and local villagers. The remaining comments from Designing Hong Kong Limited, Kadoorie Farm and Botanic Garden Corporation, World Wide Fund for Nature Hong Kong and 119 individuals object to the application mainly on the consideration that the proposed development is not line with the planning intention of "AGR" zone; the proposed development is incompatible with surrounding areas dominated by village houses; there is no changes in planning circumstances since the rejection of two previous applications; the proposed development would cause adverse traffic, environmental (including air and noise pollution), drainage and landscape impacts to the surrounding area; the proposed development would create nuisances and safety issues to villagers; the proposed development is an example

of “destroy first, develop later” since site formation work has been conducted prior to obtaining planning permission; vehicle park is an inefficient form of land utilisation; the applicant illegally occupies the Site; the proposed development is not intended to serve the needs of local villagers who can park their own vehicles in vicinity of their village houses; and the approval of this application would set an undesirable precedent for similar applications.

11. Planning Considerations and Assessments

- 11.1 The Site falls entirely within an area zoned “AGR” on the Fu Tei Au and Sha Ling OZP. The proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agriculture point of view since the Site possesses potential for agricultural rehabilitation. The applicant has not provided strong planning justifications in the submission to merit a departure from the planning intention of the “AGR” zone, even on a temporary basis.
- 11.2 The Site is situated in an area of rural landscape character comprising domestic structures, warehouse and open storage. The proposed temporary public vehicle park is considered not entirely incompatible with the surrounding land uses. Nevertheless, CTP/UD&L, PlanD objects to the application noting that about 30 trees within the Site were removed since 2015 (**Plans A-3a and A-3b**). Land/pond filling, dumping and site formation were noted. Although no significant adverse impact on the landscape resource arising from the proposed use is anticipated, approval of the application would encourage similar “development first and application later” cases. These piecemeal developments will lead to cumulative adverse impact causing gradual degradation of the landscape resources and change of landscape character in the area.
- 11.3 DEP does not support the application as there are sensitive receivers (i.e. temporary domestic structures) in the vicinity of the Site and the closest one is located to the immediate northeast at distance of about 7 m (**Plan A-2**). There are five substantial environmental complaints relating to waste pollution and suspected landfilling recorded in 2016. The proposed development is likely to have adverse environmental impact on the surrounding areas. From traffic engineering viewpoint, C for T considers the application can be tolerated since vehicles can manoeuvre within the Site without reversing on the public road. Other relevant Government departments consulted, including D of FS, CE/MN of DSD and CE/C of WSD, have no adverse comment on / no objection to the application.
- 11.4 The Site is the subject of two previous applications (No. A/NE-FTA/159 and 174) for temporary parking of container tractors and trailers for sale with ancillary office and proposed vehicle repair workshop for medium goods vehicle, heavy goods vehicle, coach and container tractor submitted by different applicants from the current application. Both applications were rejected by the Committee in October 2016 and July 2017 respectively mainly on the considerations that the proposed developments were not in line with the planning intention of the “AGR” zone; the applications did not comply with the TPB PG-No. 13E in that the proposed developments were not compatible with the surrounding land uses; there was no previous planning approval; there were adverse departmental comments; and the applicants failed to demonstrate

that the proposed developments would not cause adverse traffic, environmental and landscape impacts on the surrounding areas; and the approval of the applications would set an undesirable precedent for similar applications within the same “AGR” zone. There is no major change in planning circumstances since the rejection of the applications.

- 11.5 There are adverse public comments and local objections against the application as detailed in paragraphs 9.1.11 and 10 above. In this regard, the departmental comments and planning assessments above are relevant. With respect to the land dispute matter and land ownership issues as claimed by some commenters, it should be noted that land dispute should not be material consideration of the Board in considering each planning application, and the applicant, not being a “current land owner”, has taken reasonable steps to give notification to the owner(s) as set out in TPB PG-No. 31A.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and public comments in paragraph 10 above, the Planning Department does not support the application for the following reasons:

- (a) the proposed temporary use under application is not in line with the planning intention of the “AGR” zone for the Fu Tei Au and Sha Ling area, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
- (c) the approval of the application will set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

- 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 1.6.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 11:30 p.m. and 7:30 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the provision of boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2018;

- (c) the submission of 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 1.12.2018;
- (d) in relation to (c) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.3.2019;
- (e) the submission of landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.12.2018;
- (f) in relation to (e) above, the implementation of landscape proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 1.3.2019;
- (g) the submission of proposals for fire service installations and water supplies for firefighting 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 1.12.2018;
- (h) in relation to (g) above, the implementation of proposals for fire service installations and water supplies for firefighting within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.3.2019;
- (i) if planning conditions (a) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if any of the above planning conditions (b), (c), (d), (e), (f), (g) or (h) 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; and
- (k) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are 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 with Attachments received on 4.4.2018
Appendix Ia	Planning Statement received on 4.4.2018
Appendix Ib	Supplementary Information received on 6.4.2018
Appendix Ic	Supplementary Information received on 11.4.2018
Appendix Id	Further Information received on 15.5.2018
Appendix Ie	Further Information received on 18.5.2018
Appendix II	Previous s.16 Applications
Appendix III	Detailed Comments of Chief Engineer/Mainland North, Drainage Services Department
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a & A-3b	Aerial Photos taken in 2015 and 2017
Plans A-4a & A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**

Previous S.16 Applications

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-FTA/159	Proposed Temporary Parking of Container Tractors and Trailers for Sale with Ancillary Office for a Period of 3 Years	14.10.2016	R1 – R4
A/NE-FTA/174	Proposed Temporary Vehicle Repair Workshop for Medium Goods Vehicle, Heavy Goods Vehicle, Coach and Container Tractor for a Period of 3 Years	28.7.2017	R4 – R6

Rejection Reasons:

- R1 The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone for the area which was primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis
- R2 The application did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13E) in that the proposed development was not compatible with the surrounding land uses which were predominantly rural in character; there was no previous planning approval granted for the site; and there were adverse departmental comments on the application
- R3 The applicant failed to demonstrate that the proposed development would not cause adverse environmental and landscape impacts on the surrounding areas

- R4 The approval of the application would set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area
- R5 The proposed temporary use under application was not in line with the planning intention of the “Agriculture” (“AGR”) zone for the Fu Tei Au and Sha Ling area, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong justification in the submission for a departure from such planning intention, even on a temporary basis
- R6 The application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous approval of open storage and port back-up uses granted for the site and no exceptional circumstance to justify sympathetic consideration of the application; there were adverse departmental comments on the application; and the applicant failed to demonstrate that the proposed development would not cause adverse traffic, environmental and landscape impacts on the surrounding areas

Detailed Comments of Chief Engineer/Mainland North, Drainage Services Department

- (a) the general requirements in the drainage proposal should include:
- (i) surface channel with grating covers should be provided along the site boundary;
 - (ii) the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel and catchpit shall be provided;
 - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - (iv) the details of the catchpit should be provided and cover shall be provided to the catchpit;
 - (v) catchpits with sand trap shall be provided at the outlets of the proposed drainage system. Details of the catch pit with sand trap should be provided;
 - (vi) the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;
 - (vii) the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
 - (viii) the existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD. The applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
 - (ix) the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;
 - (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his own expense;
 - (xi) for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
 - (xii) the applicant should make good all the adjacent affected areas upon the completion

of the drainage works;

- (xiii) the applicant should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and
- (xiv) clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the Site.

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) to resolve any land issues relating to the development with other concerned owner(s) of the Site;
- (c) to note the comments of the District Lands Officer/North, Lands Department on the following:
 - (i) the applicant should make his own arrangement for acquiring access. The Government shall accept n responsibility in such arrangements; and
 - (ii) the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office;
- (d) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that the vehicular access leading from Man Kam To Road to the Site falls on unallocated Government land which is outside Highways Department's maintenance purview. The applicant is required to sort out the maintenance responsibility of the affected unallocated Government land with the District Lands Officer/North of Lands Department;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department on the following:
 - (i) the Site is in an area where no public sewer connection is available
 - (ii) the general requirements in the drainage proposal should include:
 - the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel and catchpit shall be provided;
 - the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - the details of the catchpit should be provided and cover shall be provided to the catchpit;
 - catchpits with sand trap shall be provided at the outlets of the proposed drainage system. Details of the catch pit with sand trap should be provided;
 - the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the site. The

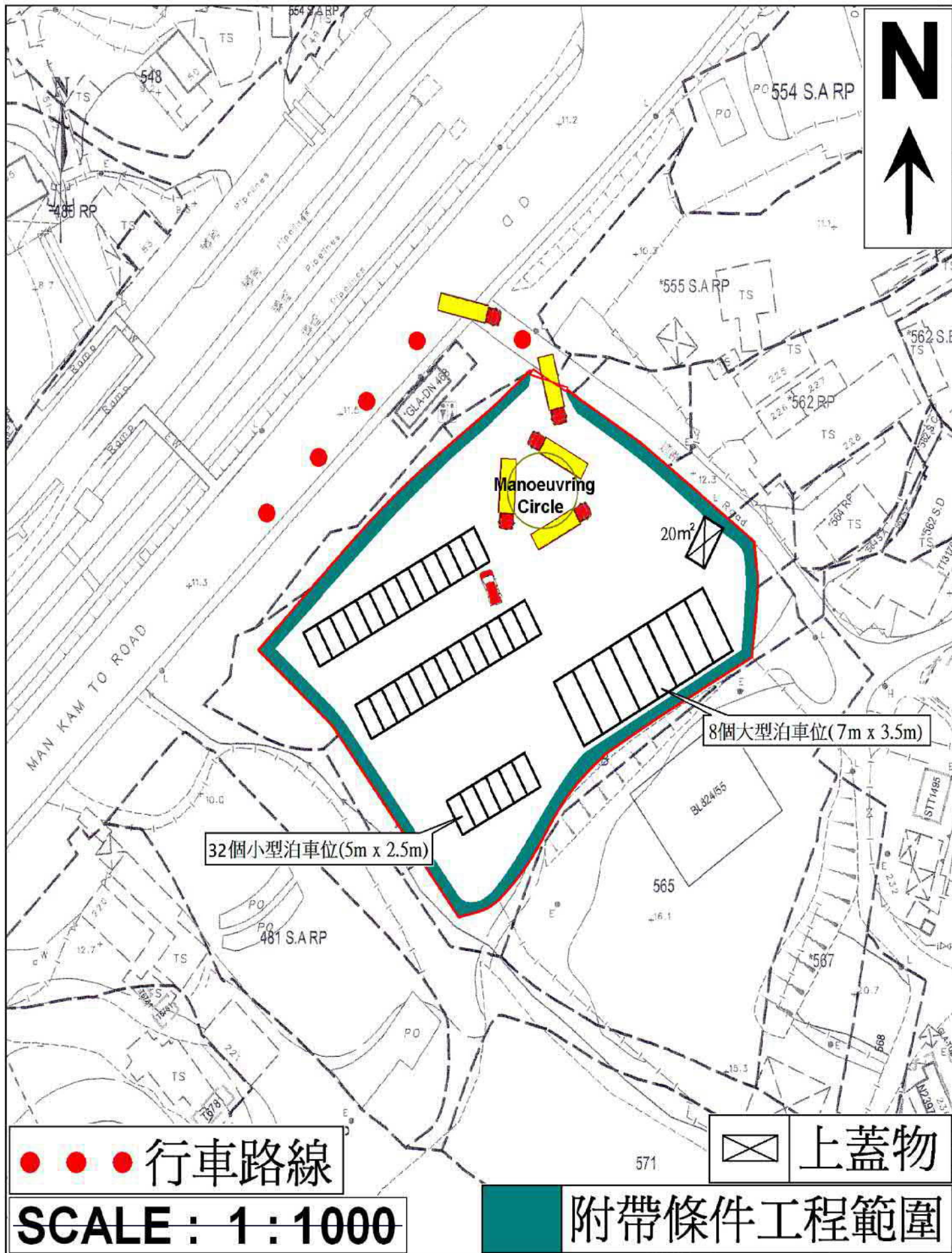
applicant should also ensure that the flow from the Site will not overload the existing drainage system;

- the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
- the existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD. The applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
- the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;
- the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his own expense;
- for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
- the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
- the applicant should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and
- clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the Site;

(f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:

- (i) the proposed temporary building/structure is subject to the control of Part VII of the Building (Planning) Regulations. The proposed drainage works shall comply with Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations. Both the building works and drainage works require prior approval and consent under the Buildings Ordinance (BO); and
- (ii) the applicant should be reminded of the followings:

- 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 BO and should not be designated for any approved use under the application;
 - 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 Unauthorized Buildings Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
 - for UBW erected on leased land, enforcement action may be taken by 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;
 - if the proposed use under application is subject to the issue of a licence, please 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;
 - in connection with the above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations respectively;
 - 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 B(P)Rs at the building plan submission stage; and
 - detailed comments under the BO will be provided at the building plan submission stage;
- (g) to note the comments of the Director of Fire Services on the following:
- (i) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by the BD; and
 - (ii) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans;
- (h) to note the comments of the Chief Engineer/Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (i) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection in order to minimise any possible environmental nuisances.



參考編號
REFERENCE No. **A/NE-FTA/184**

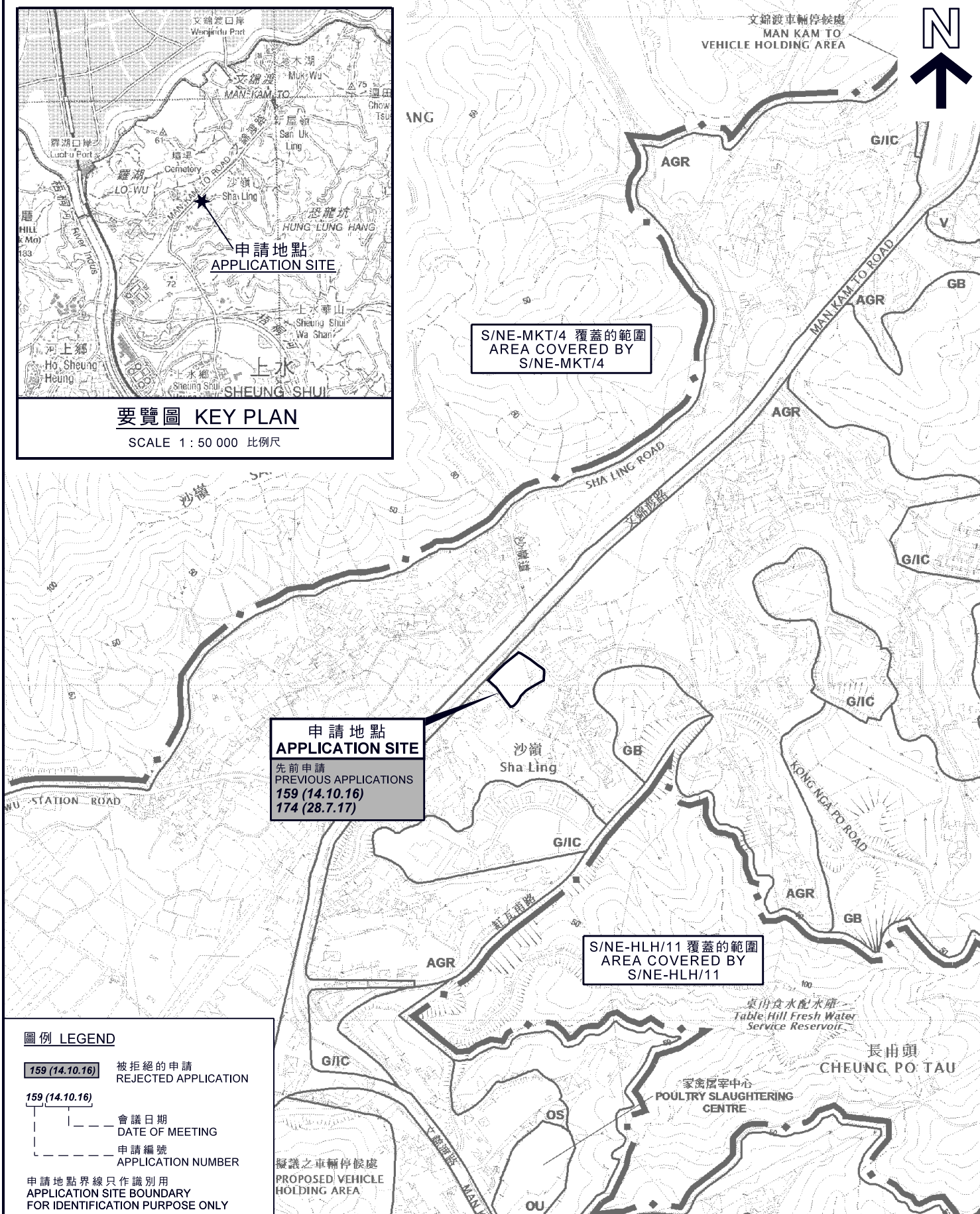
繪圖 DRAWING A-1

(來源 附件 Id)
(Source : Appendix Id)



要覽圖 KEY PLAN

SCALE 1 : 50 000 比例尺



圖例 LEGEND

- 159 (14.10.16) 被拒絕的申請
REJECTED APPLICATION
- 159 (14.10.16) 會議日期
DATE OF MEETING
- 159 (14.10.16) 申請編號
APPLICATION NUMBER
- 申請地點界線只作識別用
APPLICATION SITE BOUNDARY
FOR IDENTIFICATION PURPOSE ONLY

位置圖 LOCATION PLAN

本摘要圖於2018年5月15日擬備，
所根據的資料為於2017年12月5日核准的
分區計劃大綱圖編號S/NE-FTA/16
EXTRACT PLAN PREPARED ON 15.5.2018
BASED ON OUTLINE ZONING PLAN
No. S/NE-FTA/16 APPROVED ON 5.12.2017

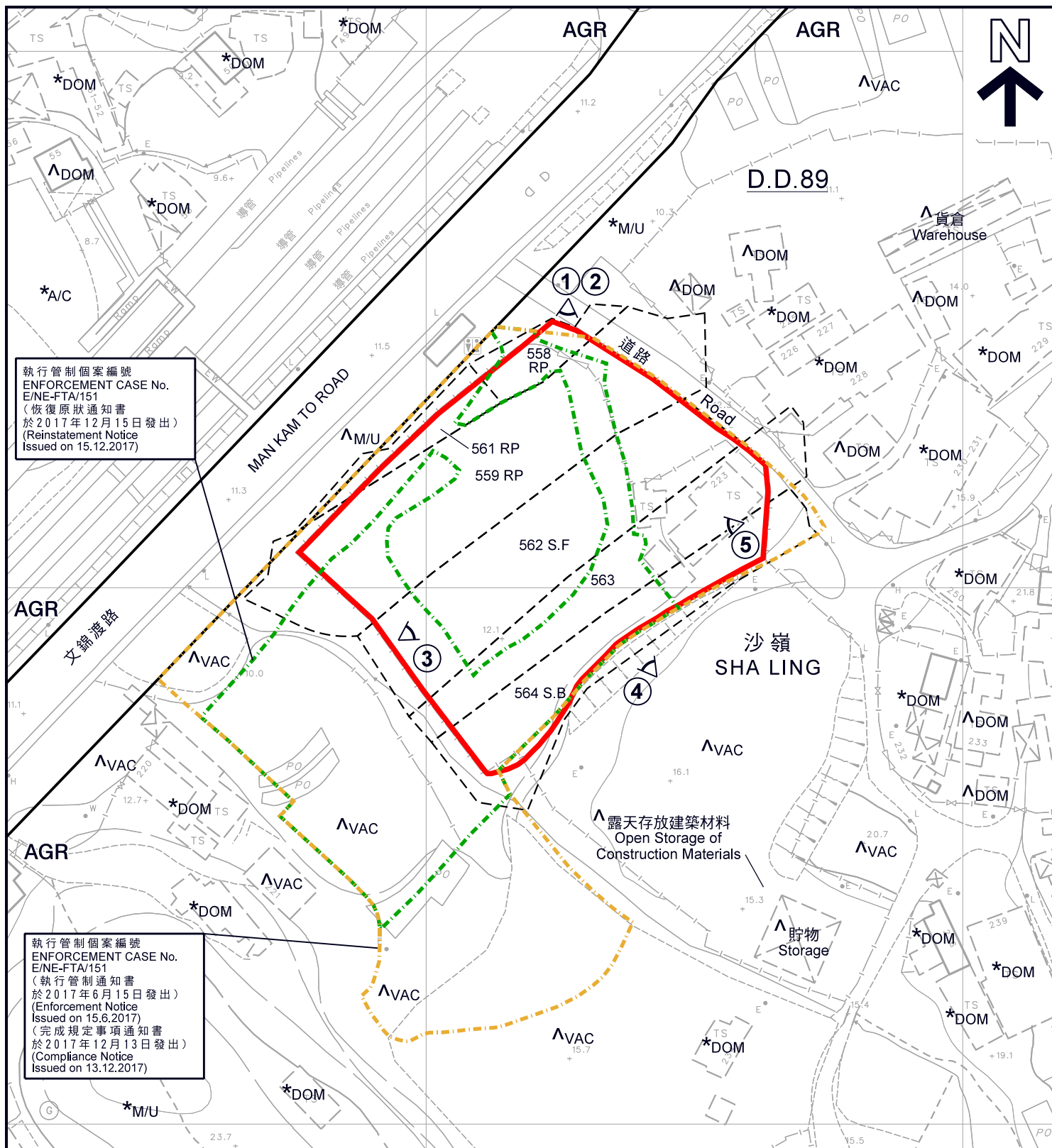
擬議臨時公眾停車場（為期3年）
新界上水沙嶺丈量約份第89約地段第558號餘段（部分）、
第559號餘段（部分）、第561號餘段（部分）、第562號F分段（部分）、
第563號（部分）及第564號B分段（部分）
PROPOSED TEMPORARY PUBLIC VEHICLE PARK
FOR A PERIOD OF 3 YEARS
LOTS 558 RP (PART), 559 RP (PART), 561 RP (PART), 562 S.F (PART),
563 (PART) AND 564 S.B (PART) IN D.D. 89, SHA LING, SHEUNG SHUI, N.T.
SCALE 1 : 7 500 比例尺
米 100 0 100 200 300 米
METRES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-FTA/184

圖 PLAN
A-1



圖例 LEGEND

- 申請地點 (界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION
PURPOSE ONLY)
- AGR** 農業
AGRICULTURE
- ① 實地照片的觀景點
VIEWING POINT OF SITE PHOTO

- A/C 常耕農地
ACTIVE AGRICULTURAL LAND
- DOM 住用構築物
DOMESTIC STRUCTURE
- M/U 荒地
UNUSED LAND
- VAC 空置
VACANT

註釋 Notes:

- (1) 2018年4月13日勘测的土地用途
Land uses shown on this plan are in accordance with the land use survey conducted by the Planning Department on 13.4.2018
- (2) * 土地用途跟1991年4月16日勘测的土地用途一致
Indicates that the use is the same as that revealed by the land use survey conducted by the Planning Department on 16.4.1991
- (3) ^ 土地用途跟1991年4月16日勘测的土地用途有別
Indicates that the use is different from that revealed by the land use survey conducted by the Planning Department on 16.4.1991

平面圖 SITE PLAN

本摘要圖於2018年5月28日擬備，
所根據的資料為測量圖編號
3-NW-21B
EXTRACT PLAN PREPARED ON 28.5.2018
BASED ON SURVEY SHEET No.
3-NW-21B

擬議臨時公眾停車場 (為期3年)
新界上水沙嶺丈量約份第89約地段第558號餘段(部分)、
第559號餘段(部分)、第561號餘段(部分)、第562號F分段(部分)、
第563號(部分)及第564號B分段(部分)
PROPOSED TEMPORARY PUBLIC VEHICLE PARK
FOR A PERIOD OF 3 YEARS
LOTS 558 RP (PART), 559 RP (PART), 561 RP (PART), 562 S.F (PART),
563 (PART) AND 564 S.B (PART) IN D.D. 89, SHA LING, SHEUNG SHUI, N.T.
SCALE 1 : 1 000 比例尺
米 20 0 20 40 米
METRES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-FTA/184

圖 PLAN
A-2



圖例 LEGEND

-  申請地點 (界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION
PURPOSE ONLY)

航攝照片 AERIAL PHOTO

本摘要圖於2018年5月15日擬備，
所根據的資料為地政總署
於2015年9月24日拍得的航攝照片
編號CS61119R
EXTRACT PLAN PREPARED ON 15.5.2018
BASED ON AERIAL PHOTO No. CS61119R
TAKEN ON 24.9.2015 BY
LANDS DEPARTMENT

擬議臨時公眾停車場 (為期3年)
新界上水沙嶺丈量約份第89約地段第558號餘段(部分)、
第559號餘段(部分)、第561號餘段(部分)、第562號F分段(部分)、
第563號(部分)及第564號B分段(部分)
PROPOSED TEMPORARY PUBLIC VEHICLE PARK
FOR A PERIOD OF 3 YEARS
LOTS 558 RP (PART), 559 RP (PART), 561 RP (PART), 562 S.F (PART),
563 (PART) AND 564 S.B (PART) IN D.D. 89, SHA LING, SHEUNG SHUI, N.T.

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-FTA/184

圖 PLAN
A-3a



圖例 LEGEND



申請地點 (界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION
PURPOSE ONLY)

航攝照片 AERIAL PHOTO

本摘要圖於2018年5月15日擬備，
所根據的資料為地政總署
於2017年4月29日拍得的航攝照片
編號E023877C
EXTRACT PLAN PREPARED ON 15.5.2018
BASED ON AERIAL PHOTO No. E023877C
TAKEN ON 29.4.2017 BY
LANDS DEPARTMENT

擬議臨時公眾停車場 (為期3年)
新界上水沙嶺丈量約份第89約地段第558號餘段(部分)、
第559號餘段(部分)、第561號餘段(部分)、第562號F分段(部分)、
第563號(部分)及第564號B分段(部分)
PROPOSED TEMPORARY PUBLIC VEHICLE PARK
FOR A PERIOD OF 3 YEARS
LOTS 558 RP (PART), 559 RP (PART), 561 RP (PART), 562 S.F (PART),
563 (PART) AND 564 S.B (PART) IN D.D. 89, SHA LING, SHEUNG SHUI, N.T.

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-FTA/184

圖 PLAN
A-3b



攝於2018年4月13日的實地照片
SITE PHOTO TAKEN ON 13.4.2018



攝於2018年5月25日的實地照片
SITE PHOTO TAKEN ON 25.5.2018



攝於2018年5月25日的實地照片
SITE PHOTO TAKEN ON 25.5.2018

申請地點界線只作識別用
APPLICATION SITE BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

實地照片 SITE PHOTOS

本圖於2018年5月28日擬備，所根據的資料為攝於2018年4月13日及2018年5月25日的實地照片
PLAN PREPARED ON 28.5.2018 BASED ON SITE PHOTOS TAKEN ON 13.4.2018 & 25.5.2018

擬議臨時公眾停車場（為期3年）
新界上水沙嶺丈量約份第89約地段第558號餘段（部分）、
第559號餘段（部分）、第561號餘段（部分）、第562號F分段（部分）、
第563號（部分）及第564號B分段（部分）
PROPOSED TEMPORARY PUBLIC VEHICLE PARK
FOR A PERIOD OF 3 YEARS
LOTS 558 RP (PART), 559 RP (PART), 561 RP (PART), 562 S.F (PART),
563 (PART) AND 564 S.B (PART) IN D.D. 89, SHA LING, SHEUNG SHUI, N.T.

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-FTA/184

圖 PLAN
A-4a



實地照片 SITE PHOTOS

本圖於2018年5月28日擬備，所根據的資料為攝於2018年4月13日的實地照片
PLAN PREPARED ON 28.5.2018 BASED ON SITE PHOTOS TAKEN ON 13.4.2018

擬議臨時公眾停車場（為期3年）
新界上水沙嶺丈量約份第89約地段第558號餘段（部分）、
第559號餘段（部分）、第561號餘段（部分）、第562號F分段（部分）、
第563號（部分）及第564號B分段（部分）
PROPOSED TEMPORARY PUBLIC VEHICLE PARK
FOR A PERIOD OF 3 YEARS
LOTS 558 RP (PART), 559 RP (PART), 561 RP (PART), 562 S.F (PART),
563 (PART) AND 564 S.B (PART) IN D.D. 89, SHA LING, SHEUNG SHUI, N.T.

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/NE-FTA/184

圖 PLAN
A-4b

applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of further information. Since it was the second deferment and a total of four months had been allowed for preparation of the submission of further information, no further deferment would be granted unless under very special circumstances.

Agenda Item 16

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-FTA/184 Proposed Temporary Public Vehicle Park for a Period of 3 Years in
"Agriculture" Zone, Lots 558 RP (Part), 559 RP (Part), 561 RP (Part),
562 S.F (Part), 563 (Part) and 564 S.B (Part) in D.D. 89, Sha Ling,
Sheung Shui
(RNTPC Paper No. A/NE-FTA/184)

Presentation and Question Sessions

58. Mr Tim T.Y. Fung, STP/STN, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed temporary public vehicle park for a period of three years;
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The Director of Environmental Protection did not support the application as there were domestic structures in the vicinity of the site and there were a total of six environmental complaints against

the site in the past three years. The Chief Town Planner/Urban Design and Landscape, Planning Department (PlanD) objected to the application from landscape planning perspective noting that about 30 trees within the site had been removed since 2015. Land/pond filling, dumping and site formation were also noted. Although no significant adverse impact on the landscape resource arising from the proposed use was anticipated, approval of the application would encourage similar “development first and application later” cases. Those piecemeal developments would lead to cumulative adverse impact causing gradual degradation of the landscape resources and change of landscape character in the area. The Director of Agriculture, Fisheries and Conservation did not support the application from agriculture point of view as agricultural infrastructures were available, and the site could be used as greenhouse cultivation or plant nursery and possessed potential for agricultural rehabilitation. According to the District Officer (North), Home Affairs Department, the Ta Kwu Ling District Rural Committee, 打鼓嶺沙嶺村居民福利會 and the Indigenous Inhabitant Representative of San Uk Ling objected to the application on the grounds set out in paragraph 9.1.11 of the Paper. Other concerned government departments had no objection to or no adverse comments on the application;

- (d) during the first three weeks of the statutory publication period, a total of 126 public comments were received. The North District Council Member and the Chairman of the Sheung Shui District Rural Committee indicated no comment on the application, while the remaining comments from 打鼓嶺沙嶺村居民福利會, the descendants of “Tso Tong”, Designing Hong Kong Limited, Kadoorie Farm and Botanic Garden Corporation, World Wide Fund for Nature Hong Kong and individuals objected to the application. Major views and objection grounds were set out in paragraph 10 of the Paper; and
- (e) PlanD’s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. The proposed use was not in line with the planning intention of the “AGR” zone. The applicant

had not provided strong planning justifications in the submission to merit a departure from the planning intention of the “AGR” zone, even on a temporary basis. The proposed use would likely have adverse environmental impact on the surrounding areas. Approval of the applications would set an undesirable precedent for similar applications within the same “AGR” zone. Regarding the adverse public comments received, the comments of government departments and planning assessments above were relevant. With respect to the land dispute matter and land ownership issues as claimed by some commenters, it should be noted that land dispute should not be a material consideration of the Town Planning Board in considering the planning application.

59. Members had no question on the application.

Deliberation Session

60. After deliberation, the Committee decided to reject the application. The reasons were:

- “(a) the proposed temporary use under application is not in line with the planning intention of the “Agriculture” (“AGR”) zone for the Fu Tei Au and Sha Ling area, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
- (c) the approval of the application will set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the

environment of the area.”

Agenda Items 17 to 19

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/650	Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lot 1526 S.B in D.D. 76, Kan Tau Tsuen, Fanling (RNTPC Paper No. A/NE-LYT/650 to 652)
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A/NE-LYT/651	Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lot 1526 S.C in D.D. 76, Kan Tau Tsuen, Fanling (RNTPC Paper No. A/NE-LYT/650 to 652)
--------------	--

A/NE-LYT/652	Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lot 1526 S.D in D.D. 76, Kan Tau Tsuen, Fanling (RNTPC Paper No. A/NE-LYT/650 to 652)
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61. The Committee noted that the three section 16 applications for proposed house (New Territories Exempted House (NTEH) – Small House) were similar in nature and the sites were located in close proximity to one another and within the same “Agriculture” zone, and agreed that they could be considered together.

Presentation and Question Sessions

62. Mr Tim T.Y. Fung, STP/STN, presented the applications and covered the following aspects as detailed in the Paper:

- (a) background to the applications;
- (b) the proposed house (NTEH – Small House) at each of the sites;
- (c) departmental comments – departmental comments were set out in paragraph 9 and Appendix IV of the Paper. The Director of Agriculture,

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

By Registered Post & Fax (2670 8169)

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/NE-FTA/184

15 June 2018

Oriental One Ltd.

(Attn.: Kwok Chi Man)

Dear Sir/Madam,

**Proposed Temporary Public Vehicle Park for a Period of 3 Years
in "Agriculture" Zone, Lots 558 RP (Part), 559 RP (Part), 561 RP (Part),
562 S.F (Part), 563 (Part) and 564 S.B (Part) in D.D. 89, Sha Ling, Sheung Shui**

I refer to my letter to you dated 28.5.2018.

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

- (a) the proposed temporary use under application is not in line with the planning intention of the "Agriculture" ("AGR") zone for the Fu Tei Au and Sha Ling area, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) you fail to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
- (c) the approval of the application will set an undesirable precedent for similar applications within the same "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

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 1.6.2018, in both English and Chinese, 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 6.7.2018).

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 Mr. Tim Fung of Sha Tin, Tai Po & North District Planning Office at 2158 6237.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

(With Chinese Translation)

Recommended Advisory Clauses

- (a) the planning permission is given to the development/uses under application. It does not condone any other development/uses which currently exist on the Site but not covered by the application. The applicant shall be requested to take immediate action to discontinue such development/uses not covered by the planning permission;
- (b) to resolve any land issues relating to the development with other concerned owner(s) of the Site;
- (c) to note the comments of the District Lands Officer/North, Lands Department on the following:
 - (i) the applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangements; and
 - (ii) the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office;
- (d) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that the vehicular access leading from Man Kam To Road to the Site falls on unallocated Government land which is outside Highways Department's maintenance purview. The applicant is required to sort out the maintenance responsibility of the affected unallocated Government land with the District Lands Officer/North of Lands Department;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department on the following:
 - (i) the Site is in an area where no public sewer connection is available
 - (ii) the general requirements in the drainage proposal should include:
 - the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel and catchpit shall be provided;
 - the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - the details of the catchpit should be provided and cover shall be provided to the catchpit;
 - catchpits with sand trap shall be provided at the outlets of the proposed drainage system. Details of the catch pit with sand trap should be provided;
 - the applicant should check and ensure that the existing drainage downstream to

which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;

- the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
- the existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD. The applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
- the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;
- the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his own expense;
- for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
- the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
- the applicant should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and
- clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the Site;

(f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:

- (i) the proposed temporary building/structure is subject to the control of Part VII of the Building (Planning) Regulations. The proposed drainage works shall comply with Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations. Both the building works and drainage works require prior approval and consent under the Buildings Ordinance (BO); and

(ii) the applicant should be reminded of the followings:

- 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 BO and should not be designated for any approved use under the application;
- 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 Unauthorized Buildings Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
- for UBW erected on leased land, enforcement action may be taken by 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;
- if the proposed use under application is subject to the issue of a licence, please 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;
- in connection with the above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations respectively;
- 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 B(P)Rs at the building plan submission stage; and
- detailed comments under the BO will be provided at the building plan submission stage;

(g) to note the comments of the Director of Fire Services on the following:

- (i) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by the BD; and
- (ii) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans;

(h) to note the comments of the Chief Engineer/Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and

(i) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'

issued by the Director of Environmental Protection in order to minimise any possible environmental nuisances.