

RNTPC Paper No. A/TM- LTYYY/273-1A
For Consideration by the
Rural and New Town Planning
Committee on 15.6.2018

FURTHER CONSIDERATION OF APPLICATION NO. A/TM-LTYYY/273-1
UNDER SECTION 16A OF THE TOWN PLANNING ORDINANCE

Proposed Extension of Time for Commencement of
the Proposed Residential Development (Flat) for a Period of 4 Years
until 17.10.2022 (i.e. Additional 4 Years from the Original Approval)

1. Background

1.1 On 22.2.2018, the applicant sought planning permission for the extension of time (EOT) for commencement of the approved development under application No. A/TM-LTYYY/273 for an additional period of 4 years until 17.10.2022. Due to departmental objection, the case was submitted to the Committee for consideration at its meeting held on 20.4.2018. After issue of the RNTPC Paper No. A/TM-LTYYY/273-1 (**Annex A**), the applicant's consultant and legal representative had submitted 3 letters dated 17.4.2018 and 19.4.2018 raising further justifications and legal issues related to the subject application for EOT (**Annexes D to F**). After deliberation, the Committee decided on 20.4.2018 to defer a decision on the application to allow time for the Secretariat to seek legal advice on the legal issues raised in the letters prior to the consideration of the subject application.

1.2 For Members' reference, the following documents are attached:

(a)	RNTPC Paper No. A/TM-LTYYY/273-1	(Annex A)
(b)	Extract of minutes of the Committee's meeting held on 20.4.2018	(Annex B)
(c)	Secretary of the Board's letters dated 4.5.2018 informing the applicant of the deferment of the RNTPC's decision	(Annex C)
(d)	Applicant's 3 letters dated 17.4.2018 and 19.4.2018	(Annexes D to F)

2. Further Information submitted by the Applicant

2.1 Justifications and legal issues raised in the applicant's 3 letters dated 17.4.2018 and 19.4.2018 are summarised as follows :

No material change in planning circumstances

2.2 There has been no material change in planning circumstances since the original permission was granted to the applicant. There is no change in the planning policy, as the general planning intention as stipulated in the Explanatory Statement (ES) of the subject Lam Tei and Yick Yuen Outline Zoning Plan (OZP) remains unchanged, i.e. to develop the area for suburban development between the two existing urban centres of Tuen Mun New Town and Yuen Long

Town. There is also no change in the land-use zoning, as the application site (the Site) remains as a “Residential (Group E)” (“R(E)”) zone with a maximum plot ratio of 1.0, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m).

- 2.3 The Site falls within a “R(E)” zone under the OZP. The original planning application was made under s.16 of the Town Planning Ordinance (TPO) and the current application for EOT is made under s.16A of the same Ordinance to effect an amendment to the planning approval. The EOT application must therefore be considered within the parameters of the OZP and the planning intention of the “R(E)” zone.
- 2.4 In so far as the “R(E)” zone is concerned, the OZP has not been amended since the planning permission was granted. The possible public housing development is not part of the planning intention of the OZP and is still undergoing environmental impact assessment study. It is wrong in law to take into consideration the study being carried out by the Housing Department (HD) on the possibility or feasibility of including the Site for public housing development. The suggestion that there is a “change in planning circumstances” is also wrong in law. In particular, in relation to paragraph 4(a) of the concerned TPB Guidelines dealing with “change in planning policy”, the Administration and the Town Planning Board (the Board) shall take into account the planning intention as shown on the OZP and the ES which assists in the interpretation of the planning intention when assessing application for EOT for commencement of development, but no regard should be made to the Administration’s intention or study to include the Site for public housing development which is not part of the OZP.

Interpretation of Planning Intention

- 2.5 The planning intention for the “R(E)” zone is to be ascertained from the OZP including the Notes and, as the Privy Council held in *Henderson Real Estate Agency Ltd. v Lo Chai Wai* [1997], the ES, though not part of the OZP, should also be taken into account in ascertaining the planning intention.

No adverse planning implications

- 2.6 There would not be any adverse planning implications arising from the EOT. When the Board granted the original permission to the applicant on 17.10.2014, thorough discussion has already been given to assess if the approval of the private residential development would have any adverse implications to a potential proposed public housing development under planning in the area. After detailed consideration, the Board decided to approve the private residential development, which represented that the Board agreed to the development scheme which was in full compliance with all the statutory development restrictions and requirements. With no change to the development scheme under the subject application for EOT, the conclusion of the development scheme being statutorily complied with all development restrictions and requirements and having no adverse planning implications remain unchanged.

On-going processing of land exchange

- 2.7 The commencement of the approved development is deferred due to the on-going processing of land exchange application and fine tuning of the site boundary. The applicant proceeded to apply to the Lands Department (LandsD) for a land exchange as early as 13.1.2015, which was 3 months right after the Board granted the planning permission. The land exchange case is currently under processing. During the land exchange application, the applicant has undertaken normal and important land administrative procedures to discuss the basic terms of lease conditions and refine the regrant site boundary to ensure the Site is available for surrender free from encumbrances.

All reasonable actions have been taken for the implementation

- 2.8 The applicant has demonstrated that all reasonable actions have been taken for the implementation of the approved development, e.g. submission of building plans for approval by the Buildings Department (BD), submission of application for land exchange by LandsD, submissions for the discharge of approval conditions by the Planning Department (PlanD) and relevant departments.

Good prospect to commence the approved development

- 2.9 The applicant has demonstrated that there is a good prospect to commence the approved development within the extended time limit, as most of the approval conditions have already been partially/fully complied with, the latest GBP has already been re-submitted to resolve the outstanding technical comments, and active negotiation with LandsD has been in progress regarding the basic terms and land premium offers. Besides, since July 2017, the existing open storage yards and workshop uses within the Site have ceased operation. The Site has been cleared and ready for commencement of development.

Extension period applied for is reasonable

- 2.10 The extension period applied for is reasonable. The original duration for commencement of the approved development is 4 years. The applicant only applies for an EOT for commencement of the approved development for another 4 years (i.e. a period of 48 more months). It does not result in an aggregate extension period longer than the original duration for commencement of the approved development. An application for such an extension is only a Class B amendment as accepted by the Board.

Ultra Vires

- 2.11 The Court of Appeal (CA) held in *International Trader Limited v Town Planning Appeal Board and Town Planning Board* [2009] held that when determining an application for planning permission under s.16 of the TPO and hence any amendment of permission under s.16A, the Board does not have the power to have regard to any and all planning considerations which it believes would assist it to reach the decision in the public interest. The Board's discretion must be exercised within the parameters of the OZP. If the Board takes into considerations which fall outside the ambit of the OZP, it acts *ultra vires*. As the CA held in *International Trader case*, the Committee, as a

committee of the Board, when determining the subject application for EOT, does not have the power to have regard to any and all planning circumstances which it believes to reach the decision in the public interest. It cannot take into account the possible public housing development which is outside the parameters of the OZP. Hence, it must ignore the objection of the HD. If the Committee was to take into account the objection of the HD, it acts *ultra vires*.

3. **Town Planning Board Guidelines**

- 3.1 The Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No. 36A¹) is applicable to this application. The applied EOT for commencement of the development is a Class B amendment under Category 19. According to the Guidelines, the Board has delegated its authority to the Director of Planning to consider applications for Class B amendments. However, application for Class B amendments which is unacceptable by the concerned Government departments will need to be submitted to the Board for consideration. In this regard, the Director of Housing (D of H) does not support the application as stated in paragraph 7.1.2 of **Annex A**. As such, the application is submitted to the Committee for consideration.
- 3.2 TPB PG-No. 35C is also applicable to this application. Any EOT for commencement of development shall not result in an aggregated extension period longer than the original duration for commencement of the approved development proposal. The criteria for assessing applications for EOT for commencement of development are as follow:
- (a) whether there has been any material change in planning circumstances since the original permission was granted (such as a change in planning policy/land-use zoning for the area);
 - (b) whether there are any adverse planning implications arising from the extension of time;
 - (c) whether the commencement of development is delayed due to some technical/practical problems which are beyond the control of the applicant, e.g. delays in land administration procedures, technical issues in respect of vehicular access and drainage works or difficulties in land assembly;
 - (d) whether the applicant has demonstrated that reasonable action(s), e.g. submission of building plans for approval or application for Small House/land exchange, have been taken for the implementation of the approved development;
 - (e) whether the applicant has demonstrated that reasonable action(s), e.g.

¹ TPB PG-No. 36A has been revised and superseded by TPB PG-No. 36B on 2.3.2018. As the subject EOT application was submitted before 2.3.2018, TPB PG-No. 36A is applicable. Nevertheless, the revision to TPB PG-No. 36A has no direct bearing on the assessment of the EOT application.

submission and implementation of proposals, have been taken to the satisfaction of relevant Government departments in complying with any approval conditions;

- (f) whether the applicant has demonstrated that there is a good prospect to commence the proposed development within the extended time limit;
- (g) whether the extension period applied for is reasonable; and
- (h) any other relevant considerations.

4. Comments from Relevant Government Departments

4.1 Comments on the s.16A application made by relevant Government departments are stated in paragraphs 7.1 and 7.2 of **Annex A**.

4.2 Relevant Government departments have been consulted on the further information (FI) received from the applicant. The comments are summarized as follows:

4.2.1 Comments of the District Lands Officer/Tuen Mun, LandsD (DLO/TM, LandsD):

He has no comment on the FI. A land exchange application for the Site is currently under processing and consideration.

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

He has no further comment. He received the latest General Building Plan submission for the Site on 18.4.2018 and is still under processing.

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

(a) He has no objection in principle from public drainage point of view on the proposed EOT.

(b) In view of the prolonged period of extension, the applicant should provide updates to the drainage proposal in relation of approval condition (c) to ensure that the drainage proposal remains valid as per the latest situation of the proposed development.

(c) Adequate drainage facilities should be provided to prevent the risk of flooding. Prior to completion of the proposed/

permanent drainage works, adequate temporary drainage measures should be provided and maintained at all times.

4.3 The following Government departments have no further comment on the application and maintain their previous objection/views on the application as stated in paragraph 7.1 in **Annex A**:

- (a) Director of Housing (D of H);
- (b) Head of Civil Engineering Office, CEDD; and
- (c) Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD).

4.4 The following Government departments have no further comment on the application and maintain the previous view of having no comment on the application as stated in paragraph 7.2 of **Annex A**.

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Environmental Protection (DEP);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Fire Services (D of FS);
- (e) Director of Food and Environmental Hygiene (DFEH);
- (f) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (g) Director of Leisure and Cultural Services (DLCS);
- (h) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (i) Commissioner of Police (C of P);
- (j) District Officer(Tuen Mun), Home Affairs Department (DO(TM), HAD);
- (k) Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD; and
- (l) Project Manager (West) (PM(W)), CEDD.

5. Planning Considerations and Assessments

5.1 The applicant's legal representative, JSM, claimed that as held by the CA in *International Trader* case, the Committee, when determining the current s.16A application, does not have the power to have regard to any and all planning considerations which it believes would assist it to reach the decision in the public interest. As such the Committee cannot take into account the proposed public housing development which is outside the parameters of the OZP. In this regard, the legal advice is that the above case is relevant to the current EOT application in the sense that it provides guidance as to what kind of documents that the Committee may rely on when ascertaining the true planning intention contained in an OZP. In this regard, CA decided that: (i) an OZP and the Notes attached thereto are obviously material documents that the Board is bound to have regard to; (ii) the ES, although not forming part of an OZP, is prepared by the Board in order to assist in an understanding of the same; and (iii) although the Board is not bound to follow an ES or any TPB Guidelines, such documents cannot be disregarded.

- 5.2 In the present case, the Committee should consider the planning intention under the draft OZP as well as the relevant TPB Guidelines, i.e. the TPB PG-No. 35C.
- 5.3 The planning intention for the “R(E)” zone is primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. New development within this zone is restricted to a maximum plot ratio of 1.0, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m). The approved development under A/TM-LTY/273 is in line with the planning intention and complies with the OZP restrictions.
- 5.4 TPB PG-No. 35C, which is specifically applicable to EOT applications, has set out the assessment criteria as summarized in paragraph 3.2 above. The main considerations include any material change in planning circumstances, any adverse planning implications arising from EOT, the reason for delay in commencement of development, any reasonable action to comply with approval conditions, any good prospect to commence the development within extended time limit and reasonableness of the extension period applied.
- 5.5 Regarding the applicant’s justifications in the FIs about no change in land use zoning, no change in planning intention of “R(E)” zone, no adverse planning implications, reasonable actions taken to implement the approved development and good prospect to commence the development in the extended time and extension for 4 years being reasonable (see paragraph 2 above), the information is factually correct or there is no dispute about these aspects. In fact, the actions taken by the applicant to take forward the approved development have been clearly set out in paragraph 4 of **Annex A**. CBS/NTW, BD has also updated the latest position of building plan submissions in paragraph 4.2.2 above. Information on compliance with approval conditions is already given in paragraph 4.6 of **Annex A**, which is given below:

Approval Conditions	Status of Compliance
(a) the implementation of the mitigation measures identified in the Environmental Assessment and Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the TPB;	To be complied with at implementation stage
(b) the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the TPB;	To be complied with at implementation stage
(c) the submission and implementation of detailed drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;	Partially complied with on 17.8.2015

Approval Conditions	Status of Compliance
(d) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;	To be complied with at implementation stage
(e) the submission of detailed archaeological impact assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;	Fully complied with² on 15.9.2017
(f) the submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the TPB; and	Partially complied with on 28.12.2016
(g) the design of the boundary treatment and provision of measures to mitigate the visual impact along the boundary of the proposed development, including its boundary fence, to the satisfaction of the Director of Planning or of the TPB.	Partially complied with on 28.12.2016

5.6 For background information (also see paragraph 4 in **Annex A**), the original planning application No. A/TM-LTY Y/273 was objected to by HD and not supported by PlanD mainly because of its encroachment onto a public housing site. The Committee approved the application upon further consideration on 17.10.2014 noting that, amongst others, the proposed public housing development at San Hing Road was still at the conceptual stage, the Tuen Mun District Council (TMDC) had concern on the public housing development (see paragraph 5.8 below), the proposed development under application complied with the OZP restrictions, and the “Industrial/Residential” interface and other technical issues were adequately addressed.

5.7 After granting the planning approvals for two applications for private residential developments on 17.10.2014 (A/TM-LTY Y/273) and on 13.3.2015 (A/TM-LTY Y/282)³ respectively (**Plan FAA-1**), the Government had explored whether the proposed public housing developments in the area could be adjusted to take into account the approved private housing developments. However, in view of the acute demand for public housing, the Government has stepped up its effort

² According to the findings of the detailed archaeological impact assessment, it is concluded that the Site has no archaeological potential, thus no mitigation measure for the proposed development is required. AMO, LCSD on 13.9.2017 agreed that approval condition (e) is considered fully complied with.

³ Application No. A/TM-LTY Y/282 was subsequently amended (mainly to increase the building height) by another application No. A/TM-LTY Y/337 approved on 23.6.2017. The reference to A/TM-LTY Y/337 in paragraph 4.9 of **Annex A** is a typo and it should be referring to the original planning approval granted under A/TM-LTY Y/282.

in increasing the supply by maximising the development potential of each public housing site. The Site, together with the other approved private residential development site (No. A/TM-LTYT/282), has been included into the study area of the much larger-scale San Hing Road and Hong Po Road public housing project (**Plan AA-1b of Annex A**). The Study Brief under the Environmental Impact Assessment Ordinance (EIAO) (**Appendix V of Annex A**) was issued on 4.8.2017 and the feasibility study had commenced in February 2018 and was expected for completion in Q1 2020. In accordance with established practice, the zoning amendment for the public housing site will be submitted to the Board for consideration upon completion of the feasibility study.

- 5.8 In respect of the TMDC's concern, the proposed public housing development was discussed at the TMDC meeting held on 1.11.2016 in the context of public housing developments in Tuen Mun district (**Annex G**). At the meeting, members expressed views that the TMDC indeed supported the proposed public housing development at San Hing Road. However, TMDC did not support HD's proposal in 2014 on grounds that there were no detailed planning, supporting transport facilities had not been properly provided, and there was a lack of sufficient local consultation and therefore requested the Government to do more work. Some members also considered that TMDC's intention was distorted by media and requested HD to clarify TMDC's position.
- 5.9 Having considered the above, whilst the land use zoning for the Site remains unchanged as "R(E)" since 2014, there is a material change in circumstances when compared to the time of consideration of Application No. A/TM-LTYT/273 in that the Government has committed to plan for a larger scale public housing project on the San Hing Road/Hong Po Road site including the Site and the related feasibility study including an EIA had commenced. Approval of the EOT is not recommended as this will run against the clear Government policy on the planned land use for the area.

6. Planning Department's Views

- 6.1 Based on the assessment made in paragraph 5 above, the Planning Department maintains its view that the application **is not supported** as it is not in line with TPB PG-No. 35C in that there has been a material change in planning circumstances in that the government has committed to plan the Site for public housing development.
- 6.2 Alternatively, should the Committee decide to approve the EOT application, it is suggested that the permission shall be valid until **17.10.2022**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the implementation of the mitigation measures identified in the Environmental Assessment and Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

- (b) the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission and implementation of detailed drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- ~~(e) the submission of detailed archaeological impact assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;~~
- (f)(e) the ~~submission and~~ implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- ~~(g)~~(f) the design of the boundary treatment and provision of measures to mitigate the visual impact along the boundary of the proposed development, including its boundary fencing, to the satisfaction of the Director of Planning or of the Town Planning Board.

[Except the original approval condition (e) which has been fully complied with and the original approval condition (f) which has been partially complied with, the other approval conditions are the same as those of Application No. A/TM-LTYT/273.]

Advisory Clauses

The recommended advisory clauses are at **Appendix VI of Annex A**.

[The advisory clauses at Appendix VI of Annex A are the same as those of Application No. A/TM-LTYT/273.]

7. Decision Sought

- 7.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 7.2 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 date when the validity of the permission should expire.

- 7.3 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.

8. Attachments

Annex A	RNTPC Paper No. A/TM-LTYT/273-1
Annex B	Extract of minutes of the Committee's meeting held on 20.4.2018
Annex C	Secretary of the Board's letters dated 4.5.2018 informing the applicants of the deferment of the RNTPC's decision
Annexes D to F	Applicant's 3 letters dated 17.4.2018 and 19.4.2018
Annex G	Extract of minutes of Tuen Mun District Council meeting held on 1.11.2016
Plan FAA-1	Location Plan

**PLANNING DEPARTMENT
JUNE 2018**

RNTPC Paper No. A/TM-LTYYY/273-1
For Consideration by the
Rural and New Town Planning
Committee on 20.4.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16A OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYYY/273-1

- Applicant** : Join Smart Limited represented by Llewelyn-Davies Hong Kong Limited
- Site** : Lots 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 and 368 RP in D.D. 130 and adjoining government land, Lam Tei, Tuen Mun
- Site Area** : About 14,553m² (including about 775m² government land (i.e. about 5.33%))
- Lease** : (a) Lot 368 RP in D.D. 130: held under Tai Po New Grant No. 5324 (lease conditions not found)
(b) Remaining lots: Block Government Lease (demised for agricultural purposes)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYYY/9
- Zoning** : “Residential (Group E)” (“R(E)”) [Restricted to a maximum plot ratio of 1.0, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m)]
- Application** : Proposed Class B Amendment – Category 19 (under TPB PG-No. 36A)

Proposed Extension of Time for commencement of the proposed residential development (flat) for a period of 4 years until 17.10.2022 (i.e. additional 4 years from the original approval)

1. The Proposal

- 1.1 The proposed residential development at the application site (the Site) (**Plan AA-1**) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 17.10.2014 upon further consideration. The application shall be valid until 17.10.2018 unless before the said date either the development permitted is commenced or the permission is renewed. The approval letter of application No. A/TM-LTYYY/273 issued by the Secretary of the Board dated 31.10.2014 is at

Appendix I.

- 1.2 On 22.2.2018, the applicant submitted application No. A/TM-LTYYY/273-1 (**Appendix I**) for Class B amendments to the approved scheme under application No. A/TM-LTYYY/273 for the extension of time (EOT) for commencement of the approved development for an additional period of 4 years until 17.10.2022.
- 1.3 In support of the application, the applicant has submitted the following documents:
- Application Form received on 22.2.2018 **(Appendix II)**
Enclosure attached to the Application Form received on 22.2.2018 **(Appendix IIa)**
- 1.4 The approved development parameters and the indicative block layout plan under application No. A/TM-LTYYY/273 are at **Appendix III** and **Drawing AA-1** respectively.

2. Justifications from the Applicant

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

- (a) The applicant has continuously been keeping close contact and actively engaging in close liaison with relevant Government departments, with an aim to facilitate early commencement and implementation of the approved development. The applicant has been making effort in trying to implement the approved development, with most of the approval conditions have been partially complied with. Specifically, the applicant has complied with all planning conditions on design and submission of technical assessments, including the submission of detailed drainage proposal, tree preservation and landscape proposal and detailed archaeological impact assessment. The remaining planning conditions could only be complied with in the implementation stage.
- (b) The applicant has continuously refined the scheme by taking into account the comments from various departments and at the same time actively keeping close liaison and negotiation with the Lands Department (LandsD) to bring forward the land exchange application since January 2015. The applicant has been making the best effort in preparing the submissions requested by LandsD, yet additional time is required to further negotiate with LandsD regarding the basic terms and land premium offers. In this connection, the applicant has to apply EOT for completion of the land exchange process.
- (c) Upon approval of the last planning application (No. A/TM-LTYYY/273), the applicant had made 4 general building plan (GBP) submissions in July 2015, February 2017, August 2017 and October 2017 respectively for the Buildings Department (BD)'s approval and has been continuously refining the scheme based on the comments received at different stage of GBP submission. The applicant will continue to pay effort to address the outstanding departmental comments for approval of GBP in future.

- (d) In accordance with the Town Planning Board Guidelines on Extension of Time for Commencement of Development (TPB PG-No. 35C), any EOT for commencement of development shall not result in an aggregated extension period longer than the original duration for commencement of the approved development. As the Board granted a 4-year period for commencement of the approved development under the planning approval No. A/TM-LTY/273, the extension sought by the applicant for another 4 years, i.e. until 17.10.2022, is reasonable and does not exceed the original duration for commencement of the approved development.
- (e) All the criteria for assessing applications for EOT for commencement of development as stipulated in TPB PG-No. 35C have been duly complied with under this application, including (i) no material change in planning circumstances since the permission was granted and no adverse planning implications arising from the EOT, (ii) reasonable actions have been taken to the satisfaction of relevant Government departments in complying with the approval conditions, and (iii) reasonable actions have been taken for the commencement of the approved development.

3. Town Planning Board Guidelines

- 3.1 The Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No. 36A¹) is applicable to this application. The applied EOT for commencement of the development is a Class B amendment under Category 19. According to the Guidelines, the Board has delegated its authority to the Director of Planning to consider applications for Class B amendments. However, application for Class B amendments which is unacceptable by the concerned Government departments will need to be submitted to the Board for consideration. In this regard, the Director of Housing (D of H) does not support the application as stated in paragraph 7.1.2 below. As such, the application is submitted to the Committee of the Board for consideration.
- 3.2 TPB PG-No. 35C is also applicable to this application. Any EOT for commencement of development shall not result in an aggregated extension period longer than the original duration for commencement of the approved development proposal. The criteria for assessing applications for EOT for commencement of development are as follow:
 - (a) whether there has been any material change in planning circumstances since the original permission was granted (such as a change in planning policy/land-use zoning for the area);
 - (b) whether there are any adverse planning implications arising from the extension of time;

¹ TPB PG-No. 36A has been revised and superseded by TPB PG-No. 36B on 2.3.2018. As the subject EOT application was submitted before 2.3.2018, TPB PG-No. 36A is applicable. Nevertheless, the revision to TPB PG No. 36 has no direct bearing on the assessment of the EOT application.

- (c) whether the commencement of development is delayed due to some technical/practical problems which are beyond the control of the applicant, e.g. delays in land administration procedures, technical issues in respect of vehicular access and drainage works or difficulties in land assembly;
- (d) whether the applicant has demonstrated that reasonable action(s), e.g. submission of building plans for approval or application for Small House/land exchange, have been taken for the implementation of the approved development;
- (e) whether the applicant has demonstrated that reasonable action(s), e.g. submission and implementation of proposals, have been taken to the satisfaction of relevant Government departments in complying with any approval conditions;
- (f) whether the applicant has demonstrated that there is a good prospect to commence the proposed development within the extended time limit;
- (g) whether the extension period applied for is reasonable; and
- (h) any other relevant considerations.

4. **Background**

- 4.1 Application No. A/TM-LTY Y/273 for proposed residential development (flat) at the Site was approved with conditions by the Committee of the Board on 17.10.2014, upon further consideration.
- 4.2 At the time of processing the planning application No. A/TM-LTY Y/273, the Site fell within a proposed public housing site at San Hing Road, which was under planning at that time.
- 4.3 Both the Planning Department (PlanD) and Housing Department (HD) did not support the application or had raised strong objection respectively. The main reasons were that the Site had encroached onto part of the planned public housing development and premature approval of the application might lead to substantial loss of public housing flats and jeopardise the implementation of the planned public housing development. The development proposal also did not represent an optimal utilisation of the limited land resources given its irregular boundary with residual land parcel difficult to be developed.
- 4.4 On 22.8.2014, the Committee considered the application and noted that consultation with the Tuen Mun District Council (DC) on the proposed public housing development at San Hing Road would be conducted shortly. The Committee decided to defer a decision pending the outcome of the DC consultation (see extract of meeting minutes at **Appendix IVa**).
- 4.5 After DC consultation on 2.9.2014, the case was resubmitted to the Committee for further consideration on 17.10.2014. After taking a vote, the Committee decided to approve the application, noting that, amongst others, the conceptual

stage of and DC’s concern on the public housing proposal, proposed development under application complied with the OZP development restrictions, and the “I/R” interface and other technical issues adequately addressed. Extract of minutes of the Committee’s meeting on 17.10.2014 is at **Appendices IVb**.

4.6 In relation to action taken by the applicant to take forward the approved development, the position of compliance with the approval conditions attached to the planning permission (**Appendix I**) are as follow:

Approval Conditions	Status of Compliance
(a) the implementation of the mitigation measures identified in the Environmental Assessment and Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the TPB;	To be complied with at implementation stage
(b) the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the TPB;	To be complied with at implementation stage
(c) the submission and implementation of detailed drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;	Partially complied with on 17.8.2015
(d) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;	To be complied with at implementation stage
(e) the submission of detailed archaeological impact assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;	Fully complied with ² on 15.9.2017
(f) the submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the TPB; and	Partially complied with on 28.12.2016
(g) the design of the boundary treatment and provision of measures to mitigate the visual impact along the boundary of the proposed development, including its boundary fence, to the satisfaction of the Director of Planning or of the TPB.	Partially complied with on 28.12.2016

² According to the findings of the detailed archaeological impact assessment, it concluded that the Site has no archaeological potential, thus no mitigation measure for the proposed development is required. AMO, LCSD on 13.9.2017 agreed that approval condition (e) is considered fully complied with.

- 4.7 The applicant submitted a land exchange proposal to LandsD on 13.1.2015. In response, LandsD on 15.7.2016 requested the applicant to submit a land boundary plan for the subdivision of lots, carry out a land boundary survey of the regrant Lot 2880 in D.D. 130 and submit a Survey Record Plan together with the survey report and supporting documents for LandsD's reference. The land exchange application is under processing.
- 4.8 Meanwhile, BD received four sets of GBP submission by the applicant on 25.6.2015, 28.2.2017, 4.8.2017 and 24.10.2017 respectively. While the applicant withdrew the submission in August 2017 on 25.9.2017, BD disapproved the remaining three sets of GBP submission on 17.8.2015, 25.4.2017 and 21.12.2017 respectively.
- 4.9 In respect of the proposed public housing development, after granting planning approval to the Site on 17.10.2014 and another private residential development (Application No. A/TM-LTYT/337) in the area on 23.6.2017 (**Plan AA-1a**), the Government had explored how to adjust the proposed public housing developments in San Hing Road and its vicinity.
- 4.10 To meet the pressing demand for developments and public housing land and having reviewed the latest situation, the Government has now decided to conduct a feasibility study on proposed developments at San Hing Road and Hong Po Road for public housing purpose covering a larger site area with a higher plot ratio. The area to be studied for the above purpose now covers the two private housing sites. The Site falls within the indicative public housing and school sites on the plan prepared by CEDD (see **Plan AA-1b**) showing the study area which was included in the submission for applying the Study Brief under the Environmental Impact Assessment Ordinance (EIAO) made on 21.6.2017. As the overall study area is larger than 20ha, the study of which is considered a Schedule 3 designated project under EIAO. The Study Brief was issued on 4.8.2017 (**Appendix V**). Consultants have subsequently been appointed and the feasibility study commenced in February 2018 for tentative completion in Q1 2020.

5. The Site and Its Surrounding Areas (Plans AA-1 to AA-3)

- 4.1 The Site is:
- (a) currently vacant and fenced-off; and
 - (b) accessible from San Tat Lane connected to San Hing Road.
- 4.2 The surrounding areas have the following characteristics:
- (a) to the north are orchard, metal workshop and storage yards. To the further north are car repair workshop, storage yards and residential dwellings;
 - (b) to the east are godown and San Tat Lane. To the further east are godown, storage yards and residential dwellings;
 - (c) to the south are open storage yards, orchard and vacant land. To the

further south is Hong Po Road; and

- (d) to the west is open storage of construction materials and vacant.

6. Planning Intention

The planning intention of the “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

7. Comments from Relevant Government Departments

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

Land Administration

- 7.1.1 Comments of the District Lands Officer/ Tuen Mun, LandsD (DLO/TM, LandsD):

A land exchange application for the Site is currently under processing and consideration. He has no comment on the proposed EOT.

Long Term Development

- 7.1.2 Comments of the Director of Housing (D of H):

CEDD is conducting the Site Formation and Infrastructural Works for the Development at San Hing Road and Hong Po Road, Tuen Mun – Feasibility Study. In this connection, the application is not supported.

- 7.1.3 Comments of the Head of Civil Engineering Office, CEDD (Head of CEO, CEDD):

- (a) His office is conducting a consultancy study titled “Agreement No. CE 68/2017(CE) – Site Formation and Infrastructural Works for the Development at San Hing Road and Hong Po Road, Tuen Mun – Feasibility Study” for the Housing Department (HD). The consultancy study commenced in February 2018 scheduled for completion in Q1 2020.
- (b) The subject land lots under application (for private residential development) would encroach into HD's public housing development site area at San Hing Road (**Plan AA-1a**). HD's comment should be sought on their development approach in San Hing Road and Hong Po Road.

Traffic

7.1.4 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no comment on the application for EOT for commencement of development from traffic engineering point of view.
- (b) Referring paragraph (b) of the letter issued by the Secretary of the Board to the applicant dated 31.10.2014 (**Appendix I**), the applicant should report for the latest situation of the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of his Office.

Drainage

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

- (a) He has no comment on the application for the proposed EOT for commencement of development for 48 months from public drainage viewpoint.
- (b) The applicant is reminded to maintain the free flow conditions of the natural streams within the boundary of the Site before “implementation” of the drainage diversion works in accordance with approval condition (c) (**Appendix I** refers).

7.2 The following Government departments have no comment on or no objection to the EOT application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Building Surveyor/New Territories West, BD (CBS/NTW, BD);
- (c) Director of Environmental Protection (DEP);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Fire Services (D of FS);
- (f) Director of Food and Environmental Hygiene (DFEH);
- (g) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (h) Director of Leisure and Cultural Services (DLCS);
- (i) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (j) Commissioner of Police (C of P);
- (k) District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD);
- (l) Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD); and
- (m) Project Manager (West), CEDD (PM(W), CEDD).

8. Planning Considerations and Assessments

- 8.1 This is an EOT application. Since the application is considered unacceptable by HD, it is submitted to the Committee for consideration. The assessment criteria in TPB PG-No. 35C as summarized in paragraph 3.2 above are relevant. The main considerations include any material change in planning circumstances, any adverse planning implications arising from EOT, the reason for delay in commencement of development, any reasonable action to comply with approval conditions, any good prospect to commence the development within extended time limit and reasonableness of the extension period applied.
- 8.2 For background information, the original planning application No. A/TM-LTY Y/273 was objected by HD and not supported by PlanD mainly because of its encroachment onto a public housing site. The Committee approved the application upon further consideration on 17.10.2014 noting that, amongst others, the proposed public housing development at San Hing Road was still at the conceptual stage.
- 8.3 Since then, the Government had explored whether the proposed public housing developments in the area could be adjusted. Having reviewed the latest situation, the need for developing public housing in the area has been re-affirmed and the Government has now come up with a decision to plan the public housing development in San Hing Road and Hong Po Road on a larger scale. The Site, together with another approved private residential development site (No. A/TM-LTY Y/337), has been included into the study area and falls within the boundary of the proposed public housing and school sites (**Plan AA-1b**). The Study Brief under EIAO (**Appendix V**) has been issued and the study consultants have already been appointed. The feasibility study commenced in February 2018 and it was expected for completion in Q1 2020.
- 8.4 As such, when compared to the time of consideration of Application No. A/TM-LTY Y/273, there is a material change in circumstances in that the Government has commenced a feasibility study to further explore developing a larger site area including the Site for public housing purpose and there is a clear intention and plan to use the Site for public housing purpose. Approval of the EOT is not recommended as this will run against the clear Government intention on the land use for the area, not to mention the very confused message that may be conveyed to the public. That said, the applicant's right to commence the approved development until 17.10.2018 under planning approval No. A/TM-LTY Y/273 will not be deprived of.

9. Planning Department's Views

- 9.1 Based on the assessment made in paragraph 8, the Planning Department does not support the application for EOT for commencement of the approved development for the following reason :

the application is not in line TPB PG-No. 35C in that there has been a material change in planning circumstances in respect of a clear intention and plan to use the Site for public housing development.

- 9.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **17.10.2022**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) the implementation of the mitigation measures identified in the Environmental Assessment and Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (b) the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission and implementation of detailed drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- ~~(e) the submission of detailed archaeological impact assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Leisure and Cultural Services or of the Town Planning Board;~~
- (f)(e) the submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- ~~(g)~~(f) the design of the boundary treatment and provision of measures to mitigate the visual impact along the boundary of the proposed development, including its boundary fencing, to the satisfaction of the Director of Planning or of the Town Planning Board.

[Except the original approval condition (e) which has been fully complied with, the other approval conditions are the same as those of Application No. A/TM-LTYY/273.]

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

[The advisory clauses at Appendix VI are the same as those of Application No. A/TM-LTYY/273.]

10. Decision Sought

- 10.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 10.2 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 date when the validity of the permission should expire.
- 10.3 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.

11. Attachments

Appendix I	Approval letter issued by the Secretary of the Board dated 31.10.2014
Appendix II	Application Form received on 22.2.2018
Appendix IIa	Enclosure attached to the Application Form received on 22.2.2018
Appendix III	Development Parameters under Application No. A/TM-LTY Y/273
Appendix IVa	Minutes of the RNTPC meeting on 22.8.2014
Appendix IVb	Minutes of the RNTPC meeting on 17.10.2014
Appendix V	EIA Study Brief issued by EPD on 4.8.2017
Appendix VI	Advisory Clauses
Appendix VIa	Detailed comments of Government Departments Concerned (extracted from Appendix IV of RNTPC Paper No. A/TM-LTY Y/273C)
Drawing AA-1	Indicative block layout plan submitted by the applicant during the previous application No. A/TM-LTY Y/273
Plan AA-1	Location Plan
Plan AA-1a	Location Plan of the Proposed Development at San Hing Road and Hong Po Road, Tuen Mun
Plan AA-1b	Proposed Development at San Hing Road and Hong Po Road, Tuen Mun
Plan AA-2	Site Plan
Plan AA-3	Site Photos

**Development Parameters under
Application No. A/TM-LTYT/273**

Site Area	14,533m ²
- Private Land	13,778m ²
- Government Land	775m ²
Maximum Gross Floor Area (GFA)	14,533m ²
Maximum Plot Ratio	1.0
Maximum Site Coverage	40%
No. of Blocks	13
Building Height	
- in metres	15m (including basement car park)
- No. of Storeys	5 storeys (including 1 storey basement car park)
No. of Flats	96 (in duplex)
Average Flat Size	152m ²
Car Parking Spaces	
- For Residents	134
- For Visitors	2
Motorcycle Parking Space	1
Loading/Unloading Spaces	13
Bicycle Parking Spaces	10
Communal Open Space	Minimum 269m ²
Communal Recreation Facilities for Residents (including clubhouse)	Nil
Sewage Treatment Plant	10m (including 5m underground) and 2 storeys (including 1 basement storey)
Design Population	269 persons

Extract of Minutes of RNTPC Meeting on 22.8.2014

Agenda Item 37

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-LTYYY/273 Proposed Residential Development (Flat) in “Residential (Group E)” Zone, Lots 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 and 368 RP in D.D. 130 and Adjoining Government Land, Lam Tei, Tuen Mun, New Territories
(RNTPC Paper No. A/TM-LTYYY/273C)

131. The Secretary reported that the application was submitted by Join Smart Ltd., which was a subsidiary of Sun Hung Kai Properties Ltd. (SHK), with AECOM Asia Co. Ltd. (AECOM) and Environ Hong Kong Ltd. (Environ) as consultants amongst others. The item also involved a potential housing site identified for public housing development by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA).

132. The following Members had declared interests in this item:

- Ms Janice W.M. Lai - having current business dealings with SHK, AECOM and HKHA;
- Mr Ivan C.S. Fu - having current business dealings with SHK, AECOM and Environ;
- Professor S.C. Wong - having current business dealings with AECOM; and being the Chair Professor and Head of Department of Civil Engineering of HKU where AECOM had sponsored some activities of the Department;
- Mr H.F. Leung - having business dealings with HKHA; and being a member of the Tender Committee of HKHA;
- Mr K.K. Ling
(the Chairman) - as the Director of Planning and being a member of the Strategic Planning Committee and the Building Committee of HKHA;
- Mr Frankie W.P. Chou - being an Alternative Member for the Director of Home Affairs who was a member of the Strategic Planning Committee and the Subsidised Housing Committee of HKHA; and
- Mr Tony H. Moyung - being an Alternative Member for the Director of Lands who was a Member of HKHA.

133. The Committee considered that the interests of the Chairman, Ms Janice W.M. Lai, Mr Ivan C.S. Fu, Mr H.F. Leung, Mr Frankie W.P. Chou and Mr Tony H. Moyung were direct and agreed that they should leave the meeting temporarily.

134. Members noted that Professor S.C. Wong had no involvement in the application and agreed that Professor Wong could stay in the meeting. The Vice-chairman took over the chairmanship of the meeting at this point.

[Mr K.K Ling, Ms Janice W.M. Lai, Mr Ivan C.S. Fu, Mr H.F. Leung, Mr Frankie W.P. Chou and Mr Tony H. Moyung left the meeting temporarily at this point.]

Presentation and Question Sessions

135. Mr K.C. Kan, STP/TMYLW said that the completion year of the public housing mentioned on P.25 of the Paper should be 2019 – 2024 instead of 2019 – 2014. Members noted.

136. Mr K.C. Kan presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) proposed residential development (flat);
 - (i) the proposed development was for 13 residential blocks comprising 96 duplex flats with a plot ratio of 1.0, site coverage of 40% and building height of 15m (4 residential storeys over 1 storey basement car park); and
 - (ii) since there were open storages, godowns and workshops to the north and east of the site, the applicant proposed to incorporate self-protecting building design to mitigate the industrial noise impacts;
- (c) departmental comments – departmental comments were set out in paragraph 9 and Appendix IV of the Paper. Major comments were summarised as below:
 - (i) the Director of Housing strongly opposed the application, as the site encroached onto part of a planned public housing development with associated welfare, education and retail facilities. Various technical assessments had been conducted and indicated that the public housing would not have insurmountable problems. The proposed development under the application would adversely affect the flat

production, layout and associated community works currently under detailed study by the Government. The target completion year of the public housing development would be 2019-2024. It was also scheduled to consult the Tuen Mun District Council (TMDC) on 2.9.2014 and subsequent actions had been programmed. If the subject application was approved, it was estimated that about 1,600 public housing flats would be lost and the provision of social welfare facilities would be adversely affected.

- (ii) Other concerned government departments had no objection to or no adverse comment on the proposed design, layout and development parameters of the application as well as the technical assessments submitted;

- (d) during the statutory public inspection periods of the application, a total of 110 public comments were received which comprised 95 supporting comments and 15 objections. The supporters included local residents and other individuals and their major grounds were that the proposed development was in line with the planning intention of the “Residential (Group E)” (“R(E)”) zone and compatible with the surrounding low-rise/village-type developments; it would help increasing housing supply, enhancing land use efficiency and generating employment. The objectors included the Indigenous Inhabitant Representation of San Hing Tsuen and Tse Tin Tsuen, as well as the Village Committee of Tuen Mun Heung San Hing Tsuen and other indigenous villagers. Their major grounds were that the proposed development would cause adverse traffic, environmental, drainage and “fung shui” impacts during and after the construction period. One commenter pointed out that the proposed development contravened Government’s policy to increasing housing supply as it was not an efficient use of land; 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, which were summarised as below:

- (i) the Policy Address 2014 already announced that under the Long Term Housing Strategy, the Government targeted to provide a total of 470,000 units in 10 years with public housing accounting for 60%. If the subject application was approved, there would be a loss of about 1,600 public housing flats, as compared with 96 flats proposed in the private residential development;
- (ii) in terms of phasing out the existing industrial uses within the “Residential (Group E)” (“R(E)”) zone, the public housing development covering a larger site would be more effective to achieve the planning intention. The planned public housing development also sought to optimize the development potential of the area through comprehensive redevelopment with higher development intensity. The proposed development might not represent an optimal utilization of land resources. Its irregular boundary might also result in residual land parcel rendering it difficult for development; and
- (iii) the planned public housing development proposal was relatively mature and the TMDC would be consulted on it next month. It might be premature to approve at this stage and thereby pre-empting the opportunity to explore implementation of a more desirable scheme for the area.

137. A Member asked whether the irregularity of the site was a major rejection reason of the application. In response, Mr K.C. Kan said the layout design of the proposed private housing development was constrained by the irregular site boundary. According to the Block Plan and Landscape Master Plan prepared by the applicant, the building blocks would be developed along the site boundary with open space located behind the blocks. The development layout was considered undesirable in terms of achieving the planning intention of the “R(E)” zone, but this was not the major reason for rejecting the application.

138. The Vice-chairman said that the development density of the proposed private housing development was comparatively low and asked whether the potential public housing

development would be incompatible with the surrounding environment. In response, Mr Kan said that the proposed private housing development was in compliance with the development restrictions of the current “R(E)” zone. The potential public housing development, which included the subject application site, could be considered as an expansion of the existing new town as it was located to the north and at the fringe of the Tuen Mun New Town. He further said that if the implementation of the potential public housing development was to proceed, amendments to the subject OZP would be required.

139. A Member said that since the proposed private housing development had complied with the development restrictions of the “R(E)” zone and no adverse departmental comment was received, it was questionable that the application should be rejected because of the possible conflict with a public housing development that might not be eventually materialized. In terms of development intensity, the Member considered that the potential public housing development instead of the private housing development might not be compatible with the surrounding environment which was mainly occupied by village houses and low-density residential developments. In response, Mr Kan said that it was necessary to take into account the current strong demand for public housing. The site was in close proximity to Tuen Mun Area 54 where a number of public housing developments were going to be constructed.

140. A Member concurred that it would be difficult at this stage to take into account the potential public housing development which was yet to be confirmed. The Vice-chairman said that the TMDC was scheduled to be consulted on the potential public housing development on 2.9.2014. In response to a Member’s question on whether the developer knew about the potential public housing development, Mr Kan answered in the affirmative.

[Professor C.M. Hui left the meeting at this point.]

Deliberation Session

141. A Member agreed that it was necessary to consider the prevailing housing policy under which there was also a need to meet the private housing demand. This Member reiterated that the irregularity of the site boundary could not be used as a justification to reject

the application in particular when the proposed private housing development had complied with all the development restrictions of the “R(E)” zone. It would also be difficult to justify if the application was rejected because of the potential public housing development in the area. Another Member concurred.

142. A Member considered that it was necessary to consider the overall housing demand and priority should be given to the public housing development. In the subject case, the potential public housing development would provide an opportunity for a more comprehensive planning of the area through phasing out industrial activities in almost the whole “R(E)” zone. The Member supported PlanD’s recommendation of rejecting the application.

143. The Vice-chairman said that given the planning intention of the “R(E)” zone was to phase out the industrial activities in the area, Members should consider whether the potential public housing development or the proposed private housing development occupying only a small part of the “R(E)” zone would be able to better achieve the planning intention.

144. A Member said that amendments to the OZP (i.e. rezoning from “R(E)” to “Residential (Group A)” (“R(A)”)) would be required if the potential public housing development was to be implemented. The Member doubted whether the rezoning to “R(A)” zone was appropriate in this location and had reservation to reject the application solely because of the housing policy to increase the public housing flats.

145. In response to a Member’s query, the Secretary said that HKHA could submit a s.12A application to effect the rezoning or PlanD could take the initiative to amend the OZP if HKHA could obtain support for the public housing development and received no adverse comments from all concerned government departments. The Secretary also drew Members’ attention to paragraph 11 of the Paper that (i) the applicant had demonstrated efforts to resolve the industrial/residential interface issue through adopting special design features in the layout, and (ii) the potential public housing development was at a mature stage and the TMDC would be consulted on 2.9.2014. Members might consider whether the application should be approved to phase out some of the industrial activities in the “R(E)” zone; or rejected in order not to pre-empt the potential public housing development covering a wider

area of the “R(E)” zone; or deferred a decision pending submission of further information on the layout design and consultation with the TMDC on the potential public housing development.

146. A Member said that the Town Planning Board (TPB) should have regard to the long-term land use planning for an area in undertaking its plan-making function. Unless the Government had made known to the public its potential public housing development, it would be difficult for the TPB to take such development into account in assessing any planning application. Another Member concurred with this view. It would be necessary for the TPB to consider how competition of land resources between the public and private sectors should be handled. A few Members were also concerned about the lack of details on the potential public housing development. In response, the Secretary said that the Committee might consider requesting more information on the layout design and implementation programme of the public housing project and compare it with the proposed private housing project so as to make an informed decision on the subject application. The Vice-chairman said that development opportunities that could optimise the development potential of the site should be considered to safeguard the public interests.

147. To facilitate the discussion, the Secretary set out three scenarios for Members to consider. First, if the Committee approved the application, the applicant could proceed with the proposed development with the compliance of approval conditions; while at the same time, if HKHA decided to pursue the potential public housing development, HKHA could either resume the private land from the applicant or revise the layout design of the public housing development in order to avoid the approved private housing development. Second, if the Committee rejected the application, the applicant was allowed to review the decision of the Committee under s.17 of the Town Planning Ordinance. Third, the Committee might consider deferring a decision on the application pending submission of further information on the potential public housing development to facilitate its further consideration of the application.

148. After further deliberation, Members agreed to defer a decision on the application in order to seek more information on the potential public housing development and to take into account the views of the TMDC on the public housing project.

149. A Member asked if there was any time limit for deferral of consideration of the application. In response, the Secretary said that this application would be resubmitted to the Committee for consideration on the receipt of more information on the potential public housing development. The TMDC would be consulted on the public housing project at the TMDC meeting to be held on 2.9.2014.

150. A Member suggested that consideration should be given to how applications that would have conflicts with potential public housing developments should be handled. This view was shared by another Member who advised that the TPB's decision on such cases might be subject to legal challenges. In response, the Secretary said that the Secretariat would examine how similar situation should be handled in future for Members' reference.

151. The Vice-chairman concluded that since HD had indicated their strong objection to the application and the potential public housing development would soon be presented to the TMDC for consultation, the application should be deferred pending submission of more information on the potential public housing development from HD as well as the views of the TMDC on the public housing project.

152. After further deliberation, the Committee decided to defer a decision on the application.

[The Vice-chairman thanked Mr K.C. Kan, STPs/TMYLW, for his attendance to answer Members' enquires. Mr Kan left the meeting at this point.]

[The meeting was adjourned for a break of five minutes.]

[Dr Eugene K.K. Chan and Ms Janice W.M. Lai left the meeting at this point.]

[Mr K.K. Ling, Mr Ivan C.S. Fu, Mr H.F. Leung, Mr Frankie W.P. Chou and Mr Tony H. Moyung returned to the meeting at this point.]

Extract of Minutes of RNTPC Meeting on 17.10.2014

Agenda Item 55

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-LTY/273 Further Consideration of Proposed Residential Development (Flat) in “Residential (Group E)” Zone, Lots 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 and 368 RP in D.D. 130 and Adjoining Government Land, Lam Tei, Tuen Mun
(RNTPC Paper No. A/TM-LTY/273D)

132. The Secretary reported that the application was submitted by a subsidiary of Sun Hung Kai Properties Ltd. (SHK) with AECOM Asia Co. Ltd. and Environ Hong Kong Ltd. as two of the consultants. The application was opposed by the Director of Housing (D of H), which was the executive arm of the Hong Kong Housing Authority (HKHA), as the site encroached onto part of a planned public housing development with associated welfare, education and retail facilities at San Hing Road. The following Members had declared interests in this item:

- | | |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Ms Janice W.M. Lai | - having current business dealings with SHK, AECOM and HKHA |
| Mr Ivan C.S. Fu | - having current business dealings with SHK, AECOM and Environ |
| Professor S.C. Wong | - being the Chair Professor and Head of Department of Civil Engineering of HKU where AECOM had sponsored some activities of the Department |
| Dr Eugene K.K. Chan | - being the Convenor of the Hong Kong Metropolitan Sports Events Association which had solicited sponsorship from SHK |
| Ms Christina M. LEE | - being a committee member of the Hong Kong Metropolitan Sports Events Association which had solicited sponsorship from SHK |
| Mr K.K. Ling
(the Chairman) | - being a member of the Strategic Planning Committee and the Building Committee of |

as the Director of Planning

HKHA

Mr. Tony Moyung
as the Assistant Director of Lands
Department

- being an alternate member for the Director of
Lands who was a member of HKHA

Mr Frankie W.P. Chou
as the Chief Engineer (Works) of
Home Affairs Department

- being an alternate member for the Director of
Home Affairs who was a member of the Strategic
Planning Committee & Subsidized Housing
Committee of HKHA

Mr H.F. Leung

- being a member of the Tender Committee of
HKHA

133. The Committee noted that Ms Janice W.M. Lai, Mr Ivan C.S. Fu, Ms Christina M. Lee, Mr Frankie W.P. Chou and Mr H.F. Leung had left the meeting already and considered that the interests of the Chairman and Mr Tony Moyung were direct and agreed that they should leave the meeting temporarily.

[The Chairman and Mr Tony Moyung left the meeting temporarily at this point.]

134. As the Chairman had left the meeting temporarily and Professor S.C. Wong, the Vice-chairman, had no direct involvement in the application, Members agreed that Professor S.C. Wong could stay and chair the meeting for this item. As Dr Eugene K.K. Chan had no direct involvement in the application, Members agreed that he could stay in the meeting.

[Mr F.C. Chan returned to join the meeting at this point.]

Presentation and Question Sessions

135. Mr K.C. Kan, STP/TMYLW, presented the application and covered the following aspects as detailed in the Paper :

Background

- (a) on 13.12.2013, the applicant sought planning permission for proposed residential development (flat) at application site (the site). The site fell

within an area zoned “Residential (Group E)” (“R(E)”) on the approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTY/6.

- (b) on 22.8.2014, the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) first considered the application. The application was opposed by D of H as the site encroached onto part of a planned public housing development with associated welfare, education and retail facilities at San Hing Road. D of H considered that the proposed development under application would adversely affect the flat production, layout and associated community works. Noting that the Tuen Mun District Council (TMDC) would be consulted on 2.9.2014 and details on the potential public housing development were not available at the meeting, the Committee decided to defer a decision on the application in order to seek more information on the potential public housing development and to take into account the views of the TMDC on the public housing project;

Further Information

- (c) on 2.9.2014, the Housing Department (HD) consulted the TMDC on the proposed public housing development with associated welfare, education and retail facilities. The major development parameters of the proposed public housing development were as follows:

Site Area	: About 8.7 ha
Maximum plot ratio	: 5
No. of flats	: About 8,000 flats
Design population	: 24,500 persons
No. of residential blocks	: 11 blocks
Maximum building height	: 125 mPD (39 storeys)
Social welfare facilities	: A district elderly community centre cum day care unit, a child care centre and a special child care centre
Education facilities	: 2 kindergartens and 1 primary school

Other facilities : Retail facility, parking and loading/unloading facilities, open space and recreation facilities, access road to Hong Po Road and a public transport lay-by

- (d) many TMDC Members raised objection to the proposed public housing development mainly on the grounds of inadequate consultation, traffic impact, and insufficient details. The TMDC requested the HD to fully consult the locals on the project and further consult the TMDC before submission of the proposed amendment to OZP for the proposed public housing development to the Board for consideration. On 11.9.2014 and 13.9.2014, the HD, with the assistance of concerned Government departments, conducted a site visit and a local consultation meeting respectively with two TMDC members and the local villagers. They expressed grave concerns on the proposed public housing project;
- (e) the HD was coordinating with concerned departments to address local concerns and technical issues with a view to further consulting the TMDC; and

The Planning Department (PlanD)'s views

- (f) PlanD maintained its view of not supporting the application based on the assessments made in paragraph 3 of the Paper. The reasons were the same as those in paragraph 12.1 of the RNTPC Paper No. A/TM-LTY/273C which included:
 - (i) the development proposal did not represent an optimal utilisation of the limited land resources given its irregular boundary with residual land parcel difficult to be developed; and
 - (ii) the application site encroached onto part of a planned public housing development with associated welfare, education and retail facilities. Premature approval of the application might lead to substantial loss

of public housing flats and jeopardise the implementation of the public housing project.

136. A member asked whether HD had submitted any rezoning proposal for the proposed public housing development for the Board's consideration. In response, Mr K.C. Kan explained that HD could submit the proposed amendment to the draft OZP under section 12A of the Town Planning Ordinance; or upon HD's completion of the various technical assessments and consultation with the relevant DC, PlanD would submit the proposed amendment to the draft OZP to the Board for consideration.

137. The Vice-chariman asked whether the proposed public housing development was only at the conceptual stage. In response, Mr K.C. Kan said that HD had consulted the TMDC on the proposed public housing development. A conceptual plan together with some major development parameters were provided for TMDC's consideration.

138. Another Member asked whether the application site was owned by the applicant and if so, how could HD proceed with the public housing development. In response, Mr. K.C. Kan confirmed that the application site was largely on private land owned by the applicant. He said that if the proposed public housing development was considered acceptable, the draft OZP would be amended and the Lands Department would resume the land for public purpose according to the Land Resumption Ordinance. The Secretary supplemented that according to the Land Resumption Ordinance, private land could only be resumed for a public purpose.

Deliberation Session

139. A Member considered that the private residential scheme under the application appeared to be more advanced than the conceptual public housing scheme in terms of readiness for implementation, was in compliance with the development restrictions on the OZP and was generally acceptable. Moreover, it was not for the Committee to decide whether a residential site should be used for public or private housing development.

140. Two other Members were of the view that it would not be in the interest of the public to approve the application as the proposed public housing development, which would

be more comprehensive and covered a larger area, would provide more housing units to meet the public need. A Member asked how the planned public housing development would be affected, if the private housing development was approved. Making reference to a location plan and HD's conceptual layout, Members noted that the applicant site was about 1.4 ha whilst the planned public housing site was about 8.7 ha. If the subject application was approved, blocks 2, 5 and 6 as well as the proposed school within the public housing development would be affected.

141. The Vice-chairman drew Members' attention that the current application had complied with the development restrictions of the "R(E)" zone as stipulated on the OZP and that technical issues associated with the development had been adequately addressed at this stage. The reason for deferring the subject application by the Committee on 22.8.2014 was that Members wished to seek more information on the proposed public housing development and to take into account the views of TMDC on it.

142. A Member considered that there were demand for both private and public housing. Although the supply of public housing might be affected upon approval of the application, the proposed public housing development with adjustment, could still be pursued. The views were shared by another Member who considered that favourable consideration should be given to the private residential scheme under the application, which was more advanced than HD's conceptual public housing scheme and entailed no technical problem. The Member also noted that TMDC strongly opposed HD's proposed public housing development and there was concern about the traffic impact to be generated by the large-scale public housing development proposed by HD given that there were a number of existing large-scale public housing estates in the locality. Even if the application was approved, the HD could still modify the design and implement the public housing development.

[Professor Eddie C.M. Hui left the meeting at this point.]

143. A Member asked whether the approval of the current application might have implications on the assessment of land value in the future land resumption by the Government. Members noted that assessment of land value by LandsD was generally based on the lease entitlement. The Secretary added that even if the subject application was approved, LandsD could still resume the concerned land if the requirement of the Land

Resumption Ordinance was complied with. When assessing the land value upon land resumption, LandsD would base on the existing lease of the lots, which was mainly for agricultural use.

[Mr. F.C. Chan left the meeting at this point.]

144. A Member considered that approval should be given to the subject application given that HD's proposed public housing development was only at a conceptual stage. The view was shared by two other Members as there was no strong justification to reject the application. A Member was of the view that it should not be the Committee's concern on whether the site should be developed for public housing or not. This Member also worried that HD might not be able to obtain TMDC's blessing in the short term because of the lack of information on the proposed public housing scheme. Another Member however considered that TMDC might agree with the public housing scheme once the HD had submitted a detailed proposal.

145. The Secretary drew Members' attention that the applicant had provided sufficient information and relevant technical assessments to support this application which was considered by the Committee at its meeting on 22.8.2014. At that meeting, Members noted HD's strong objection to the application and agreed to defer the decision in order to seek more information on the proposed public housing development and to take into account the views of the TMDC on the public housing project, noting that TMDC would be consulted on the public housing project on 2.9.2014. At today's meeting, HD had not provided much additional information on the proposed public housing development and it was noted that TMDC had strong reservation on the proposed public housing development. According to the information provided by the HD, the public housing development would commence in 2018 and be completed between 2023 and 2024.

146. A Member who did not support the application proposed to submit the application to the full Board for consideration as a decision on the subject application would involve public interest. The land would be used more efficiently for public housing development to provide affordable housing. The proposal was not supported by other Members who considered that the information provided by the applicant was sufficient and there was no strong justification for further deferring a decision on the application by

submitting it to the full Board. The Vice-chairman also explained that it was under very exceptional circumstances that the Committee would submit a section 16 planning application to the full Board for consideration. The Secretary supplemented that according to the Town Planning Ordinance, the Committee was empowered to consider section 16 planning applications under the delegated authority of the Board, while the Board would consider review applications under section 17 of the Town Planning Ordinance.

147. The Vice-chairman reminded Members that it was the Committee's responsibility to consider and decide on s.16 planning application. He reminded Members to focus on deliberation of the current application. Most of the Members agreed that the application should be considered by the Committee.

148. After further consideration, a vote was taken with three Members in support and two against the application. The Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 17.10.2018, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- “(a) the implementation of the mitigation measures identified in the Environmental Assessment and Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the TPB;
- (b) the provision of vehicular access, parking and loading and unloading facilities to the satisfaction of the Commissioner for Transport or of the TPB;
- (c) the submission and implementation of detailed drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;
- (d) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (e) the submission of detailed archaeological impact assessment and implementation of the mitigation measures identified therein to the

satisfaction of the Director of Leisure and Cultural Services or of the TPB;

- (f) the submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the TPB; and
- (g) the design of the boundary treatment and provision of measures to mitigate the visual impact along the boundary of the proposed development, including its boundary fence, to the satisfaction of the Director of Planning or of the TPB.

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

- “(a) the approval of the application does not imply that the proposed building design elements could fulfill the requirements under the Sustainable Building Design Guidelines and the relevant requirements under the lease, and that the proposed gross floor area (GFA) concession for the proposed development will be approved/granted by the Building Authority. The applicant should approach the Buildings Department and the Lands Department direct to obtain the necessary approval. If the building design elements and the GFA concession are not approved/granted by the Building Authority and the Lands Authority and major changes to the current scheme are required, a fresh planning application to the Board may be required;
- (b) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (LandsD) that the site comprises a total of 17 private lots and adjoining unleased Government land. The private lots are Old Schedule Agricultural Lots, except Lot 368 RP in D.D. 130, which is held under Tai Po New Grant No. 5324, the lease conditions of which cannot be found in the Land Registry. The proposed residential development contravenes the existing lease conditions and involves adjoining Government land. The applicant will need to apply to the LandsD for a land exchange for the proposal. There is no guarantee that the application, if received by the LandsD, will be approved and he reserves his comment on such. The application will be considered by

the LandsD acting in the capacity as the landlord at its sole discretion. In the event that if the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, charging the payment of premium and administration fee as may be imposed by the LandsD. The quality and sustainable built environment (QBE) requirements in relation to building separation, building setback, greenery, 10% cap on the GFA concession in respect of green/amenity features and non-essential plant room/services and 100% GFA concession where car parks are provided underground and 50% GFA concession for car parks provided above ground unless exemption for granting 100% GFA concession for above ground car parks is approved by the Building Authority, where applicable, will be imposed in the lease for cases involving lease modification and land exchange. The applicability of each QBE requirement for the proposed residential development will be examined in detail during the processing of the land exchange application. Apart from the track at the northwestern corner of the site, it appears that there are other village track(s) affected by the proposed development. If planning approval is given, detailed access arrangements to the site and the adjoining land, including but not limited to the said footpaths/tracks, will be examined at the land exchange processing stage. Should the proposal involve closure of existing footpaths/tracks, such closure is required to go through the statutory procedures set out in the Road (Works, Use and Compensation) Ordinance (Cap. 370) and may require the gazettal under section 5 of Cap. 370. The gazetting procedures for the concerned modification works to facilitate a private development, if required, would be carried out by his Office and the applicant would be liable to pay the Government all the costs on such works (including administrative costs and non-administrative costs). There is no guarantee that the application, if received by the LandsD, will be eventually approved under the provision of Cap. 370 and he reserve his comment on such. Regarding the local concerns on the possible impact on the existing graves in the vicinity of the site, the applicant should examine whether and how the proposed site boundary or the development design can address the local concern;

- (c) to note the comments of the Chief Building Surveyor / New Territories West, Buildings Department (BD) that if the existing structures are

erected on leased land without approval of the Buildings Department (BD) (not being New Territories Exempted House), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Before any new building works (including temporary buildings) are to be carried out on the site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person 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 the BD to effect their removal in accordance with the 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. The site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. In accordance with the Government's committed policy to implement building design to foster a quality and sustainable built environment, the sustainable building design requirements (including building separation, building setback and greenery coverage) should be included, where possible, in the conditions in the planning approvals. The provision of lighting and ventilation of rooms used or intended to be used for habitation or as kitchen and rooms containing soil fitments shall comply with the requirements stipulated under B(P)R 30 and 36;

- (d) to note the comments of the Director of Environmental Protection that the applicant shall apply for license under Water Pollution Control Ordinance for the sewage treatment plant;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that the proposed potted trees should not be placed directly on top of the proposed 1600mm(W) x 1600mm(H)

rectangular channel and the potted trees should not adversely affect the inspection, operation and maintenance of the channel. Proper access route should be provided to the proposed 1600mm(W) x 1600mm(H) rectangular channel taking into account the size of mechanical plant(s) required for carrying out future operation and maintenance works (e.g. lifting up the concrete channel covers and adjacent potted trees). Detailed comments are at Appendix IV of the paper. The Sewerage Impact Assessment (SIA) for the application needs to meet the full satisfaction of the Director of Environmental Protection, the planning authority of sewerage infrastructure. The DSD's comments on the SIA are subject to views and agreement of the DEP;

- (f) to note the comments of the Chief Engineer/Land Drainage, DSD that the applicant is reminded that a valid license for discharge from DEP is required before the discharge of effluent of the local sewage treatment plant commences and the requirements of the effluent discharge, e.g. quantity and quality of effluent, should be agreed by the DEP;
- (g) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that existing water mains will be affected. If diversion of the existing water mains is required, the developer shall prior to carrying out the diversion works submit the proposed routing in writing to the Water Authority for approval and the cost of relocating the Government water mains shall be borne by the developer. In case it is not feasible to divert the affected water mains, a Waterworks Reserve within 1.5 m from the centerline of the water mains shall be provided to the 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 contractor, 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 authorized. The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the site;
- (h) to note the comments of the Antiquities and Monuments Office, Leisure and Cultural Services Department that no construction works

on the site should commence prior to the compliance with the approval conditions. The archaeological impact assessment report should be conducted by a qualified archaeologist, who shall obtain a licence from the Antiquities Authority under the Antiquities and Monuments Ordinance (Cap. 53);

- (i) to note the comments from the Director of Social Welfare that the private developer may take the opportunity to enhance the site environment by providing more community facilities in the area;
- (j) to note the comments of the Director of Electrical and Mechanical Services that there are 400 kV overhead lines running close to the proposed development areas. A 50 m working corridor between the proposed development and the concerned 400 kV overhead lines (25 m on either side from the centre line of the transmission line towers) and relevant safety clearances would be maintained in accordance with the Hong Kong Planning Standards and Guidelines. According to paragraph 2.3.17 of the HKPSG, building development will not be restricted in areas outside the working corridor and working circle subject to the provision of emergency vehicular access, wherever appropriate as required by the Fire Services Department (FSD). However, for development within the working corridor and working circle, agreement from the Electrical and Mechanical Services Department (EMSD), FSD and the power company should be sought in order to ensure compliance with the safety and health considerations as given in the HKPSG. Prior to establishing any structure within the site, the applicant and/or the applicant's contractors shall liaise with CLP Power (i.e. the electricity supplier) and, if necessary, ask CLP Power to divert the underground electricity cable (and/or overhead electricity line) away from the vicinity of the proposed structure, where practicable. The "Code of Practice on Working near Electricity Supply Lines" established under the Electricity Supply Lines (Protection) Regulation shall be observed by the applicant and the applicant's contractors when carrying out works in the vicinity of the electricity supply lines;
- (k) to note the comments of the Director of Health that there are overhead transmission lines and pylons in the vicinity of the proposed residential development. Future occupants of the residential development may

be exposed to extremely low frequency electromagnetic fields generated by the transmission lines. According to the World Health Organization, with compliance with the relevant International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines, exposure to extremely low frequency electromagnetic fields, such as those generated by transmission lines, would not pose any significant adverse effects to workers and the public. As such, the project proponent must ensure that the magnitudes of the electromagnetic fields on-site complied with the relevant ICNIRP guidelines or other established international standards. He notes that the project proponent will ensure the magnitudes of electromagnetic fields on-site comply with the relevant ICNIRP guidelines or other established international standards; and

- (1) to note the comment of District Officer (Tuen Mun), Home Affairs Department that the applicant should keep the portion of the existing village track falling within the site intact and ensure free and unobstructed access during construction stage and after completion of the proposed development. There is also a proposed District Minor Works project (i.e. proposed improvement to van track and associated facilities) in close proximity to the site which will commence in late 2014. Should there be any interface with the proposed works, the applicant should inform his Office.”

[The Chairman and Mr Tony Moyung returned to join the meeting at this point. Mr David Y.T. Lui left the meeting and Professor S.C. Wong and Mr Peter K.T. Yuen left the meeting temporarily at this point.]

Advisory Clauses

- (a) the approval of the application does not imply that the proposed building design elements could fulfill the requirements under the Sustainable Building Design Guidelines and the relevant requirements under the lease, and that the proposed gross floor area (GFA) concession for the proposed development will be approved/granted by the Building Authority. The applicant should approach the Buildings Department (BD) and the Lands Department (LandsD) direct to obtain the necessary approval. If the building design elements and the GFA concession are not approved/granted by the Building Authority and the Lands Authority and major changes to the current scheme are required, a fresh planning application to the Board may be required;
- (b) to note the comments of the DLO/TM, LandsD that the site comprises a total of 17 private lots and adjoining unleased Government land. The private lots are Old Scheduled Agricultural Lots, except Lot 368 RP in D.D. 130, which is held under Tai Po New Grant No. 5324, the lease conditions of which cannot be found in the Land Registry. The proposed residential development contravenes the existing lease conditions and involves adjoining Government land. The applicant will need to apply to the LandsD for a land exchange for the proposal. There is no guarantee that the application, if received by the LandsD, will be approved and he reserves his comment on such. The application will be considered by the LandsD acting in the capacity as the landlord at its sole discretion. In the event that if the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, charging the payment of premium and administration fee as may be imposed by the LandsD. The quality and sustainable built environment (QBE) requirements in relation to building separation, building setback, greenery, 10% cap on the GFA concession in respect of green/amenity features and non-essential plant room/services and 100% GFA concession where car parks are provided underground and 50% GFA concession for car parks provided above ground unless exemption for granting 100% GFA concession for above ground car parks is approved by the Building Authority, where applicable, will be imposed in the lease for cases involving lease modification and land exchange. The applicability of each QBE requirement for the proposed residential development will be examined in detail during the processing of the land exchange application. Apart from the track at the northwestern corner of the site, it appears that there are other village track(s) affected by the proposed development. If planning approval is given, detailed access arrangements to the site and the adjoining land, including but not limited to the said footpaths/tracks, will be examined at the land exchange processing stage. Should the proposal involve closure of existing footpaths/tracks, such closure requires to go through the statutory procedures set out in the Road (Works, Use and Compensation) Ordinance (Cap. 370) and may require the gazettal under section 5 of Cap. 370. The gazetting procedures for the concerned modification works to facilitate a private development, if required, would be carried out by his Office and the applicant would be liable to pay the Government all the costs on such works (including administrative costs and non-administrative costs). There is no guarantee that the application, if received by the LandsD, will be eventually approved under the provision of Cap. 370 and he reserve his comment on such. Regarding the local concerns on the possible impact on the existing graves in the vicinity of the site, the applicant should examine whether and how proposed site

boundary or the development design can address the local concern;

- (c) to note the comments of the CBS/NTW, BD that if the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Before any new building works (including 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 Building Works (UBW). An Authorized Person 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 the BD to effect their removal in accordance with the 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. The site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. In accordance with the Government's committed policy to implement building design to foster a quality and sustainable built environment, the sustainable building design requirements (including building separation, building setback and greenery coverage) should be included, where possible, in the conditions in the planning approvals. The provision of lighting and ventilation of rooms used or intended to be used for habitation or as kitchen and rooms containing soil fitments shall comply with the requirements stipulated under B(P)R 30 and 36;
- (d) to note the comments of the DEP that the applicant shall apply for license under Water Pollution Control Ordinance for the sewage treatment plant;
- (e) to note the comments of the CE/MN, DSD that the proposed potted trees should not be placed directly on top of the proposed 1600mm(W) x 1600mm(H) rectangular channel and the potted trees should not adversely affect the inspection, operation and maintenance of the channel. Proper access route should be provided to the proposed 1600mm(W) x 1600mm(H) rectangular channel taking into account the size of mechanical plant(s) required for carrying out future operation and maintenance works (e.g. lifting up the concrete channel covers and adjacent potted trees). Detailed comments are at **Appendix VIa** (extracted from Appendix IV of RNTPC Paper No. A/TM-LTYY/273C). The Sewerage Impact Assessment (SIA) for the application needs to meet the full satisfaction of the DEP, the planning authority of sewerage infrastructure. The DSD's comments on the SIA are subject to views and agreement of the DEP;
- (f) to note the comments of the CE/LD, DSD that the applicant is reminded that a valid license for discharge from DEP is required before the discharge of effluent of the local sewage treatment plant commences and the requirements of the effluent discharge, e.g. quantity and quality of effluent, should be agreed by the DEP;

- (g) to note the comments of the CE/Dev(2), WSD that existing water mains will be affected. If diversion of the existing water mains is required, the developer shall prior to carrying out the diversion works submit the proposed routing in writing to the Water Authority for approval and the cost of relocating the Government water mains shall be borne by the developer. In case it is not feasible to divert the affected water mains, a Waterworks Reserve within 1.5 m from the centerline of the water mains shall be provided to the 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 contractor, 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 authorized. The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the site;
- (h) to note the comments of the AMO, LCSD that no construction works on the site should commence prior to the compliance with the approval conditions. The archaeological impact assessment report should be conducted by a qualified archaeologist, who shall obtain a licence from the Antiquities Authority under the Antiquities and Monuments Ordinance (Cap. 53);
- (i) to note the comments from the DSW that the private developer may take the opportunity to enhance the site environment by providing more community facilities in the area;
- (j) to note the comments of the DEMS that there are 400 kV overhead lines running close to the proposed development areas. A 50 m working corridor between the proposed development and the concerned 400 kV overhead lines (25 m on either side from the centre line of the transmission line towers) and relevant safety clearances would be maintained in accordance with the HKPSG. According to paragraph 2.3.17 of the HKPSG, building development will not be restricted in areas outside the working corridor and working circle subject to the provision of emergency vehicular access, wherever appropriate as required by the Fire Services Department (FSD). However, for development within the working corridor and working circle, agreement from the Electrical and Mechanical Services Department (EMSD), FSD and the power company should be sought in order to ensure compliance with the safety and health considerations as given in the HKPSG. Prior to establishing any structure within the site, the applicant and/or the applicant's contractors shall liaise with CLP Power (i.e. the electricity supplier) and, if necessary, ask CLP Power to divert the underground electricity cable (and/or overhead electricity line) away from the vicinity of the proposed structure, where practicable. The "Code of Practice on Working near Electricity Supply Lines" established under the Electricity Supply Lines (Protection) Regulation shall be observed by the applicant and the applicant's contractors when carrying out works in the vicinity of the electricity supply lines;
- (k) to note the comments of the D of Health that there are overhead transmission lines and pylons in the vicinity of the proposed residential development. Future

occupants of the residential development may be exposed to extremely low frequency electromagnetic fields generated by the transmission lines. According to the World Health Organization, with compliance with the relevant International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines, exposure to extremely low frequency electromagnetic fields, such as those generated by transmission lines, would not pose any significant adverse effects to workers and the public. As such, the project proponent must ensure that the magnitudes of the electromagnetic fields on-site complied with the relevant ICNIRP guidelines or other established international standards. He notes that the project proponent will ensure the magnitudes of electromagnetic fields on-site complied with the relevant ICNIRP guidelines or other established international standards; and

- (1) to note the comment of DO(TM), HAD that the applicant should keep portion of existing village track falling within the site intact and ensure free and unobstructed access during construction stage and after completion of the proposed development. There is also a proposed District Minor Works project (i.e. proposed improvement to van track and associated facilities) in close proximity to the site which will commence in late 2014. Should there be any interface with the proposed works, the applicant should inform his Office.

Appendix IV of RNTPC
Paper No. A/TM-LTY/273C

Detailed Comments of Government Departments Concerned

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

Drainage Impact Assessment (at Appendix Ik and Im)

Comments

- (a) He has no in-principle objection to the Drainage Impact Assessment (DIA) for the captioned application.
- (b) The applicant should be reminded that the proposed potted trees should not be placed directly on top of the proposed 1600(W) x 1600(H) rectangular channel and the potted trees should not adversely affect the inspection, operation and maintenance of the channel.
- (c) The applicant should be reminded that proper access route should be provided to the proposed 1600(W) x 1600(H) rectangular channel taking into account the size of mechanical plant(s) required for carrying out future operation and maintenance works (e.g. lifting up the concrete channel covers and adjacent potted trees).
- (d) Should the application be approved, the applicant shall submit and implement a detailed drainage proposal for the site to the satisfaction of DSD to ensure that it will not cause adverse drainage impact to the neighbourhoods of the application site.

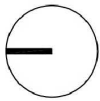
Reminders

- (e) There is an existing watercourse running across the western part of the site. This existing watercourse lies on Government land and it is essential to the drainage of areas around the application site. It is noted that the applicant proposed to divert the watercourse to a 1600(W) x 1600(H) rectangular channel ("the diverted drain"). The applicant shall not erect any structure including any support, or place any object or obstruction of any kind in the diverted drain or suffer the same to be erected or placed in the drain. The applicant shall ensure that the areas within 3 metres from the extremities of the diverted drain on each side within the subject application site are clear of any structure or obstruction to permit free access along the diverted drain at all times.
- (f) The applicant shall maintain those parts of the diverted drain falling within the application site structurally intact and clear of any refuse, deposits or like obstructions to the unimpeded flow in the diverted drain.

- (g) The applicant shall allow the personnel of DSD or its agents to enter upon or access through the application site for purposes of inspection of the diverted drain within a notice of 14 days issued by DSD in writing. In case any inspection on the diverted drain by DSD is needed, the potted trees directly on top/ in the vicinity of the diverted drain shall be removed and reinstated where necessary by the applicant and at the applicant's cost.
- (h) The cover level of proposed peripheral channels could be flush with the existing adjoining ground level. Channels should be provided with grated covers.
- (i) 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.
- (j) It is noted that there will be proposed fence wall along the boundary of the site. The applicant is reminded that where walls are erected or kerbs are laid along the boundary of the site, peripheral channels should be provided on both sides of the walls or kerbs with details to be agreed by DSD. Alternatively, the applicant may construct adequate openings at the foot of the wall, with size and spacing to be justified by design calculations and details to be agreed by DSD, in order to allow the passage of overland flow from adjacent catchment areas.
- (k) The proposed drainage works should be constructed by the lot owners at their own expense. For works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/TM, LandsD and/or relevant private lot owners.
- (l) Para. 5 - The temporary drainage works should be in accordance with "DSD Technical Circular No. 14/2000 – Temporary Flow Diversions and Temporary Works Affecting Capacity in Stormwater Drainage System".
- (m) With reference to the drawings, the proposed 600mm drainage pipe would be connected to the existing public drain (manhole no. SCH1015463) and hence modification to the existing drain would be necessary. A terminal manhole should be constructed within and close to the site boundary before discharging the stormwater to the nearby public drain. The applicant is also reminded to follow the established procedures and requirements and submit a drainage connection proposal to DSD for comment and approval. The connection work will be subject to our technical audit, for which an audit fee will be charged. Detailed guidelines and application form are available at DSD's website at www.dsd.gov.hk.

Sewerage Impact Assessment (at **Appendix Ik**)

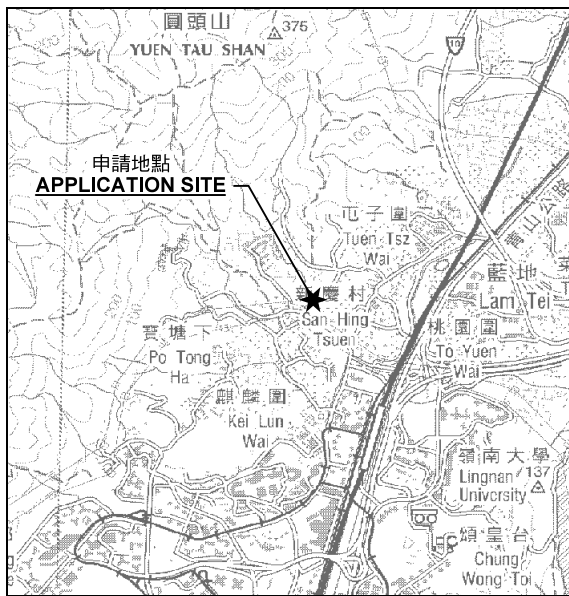
- (n) The Sewerage Impact Assessment (SIA) for the application needs to meet the full satisfaction of Environmental Protection Department (EPD), the planning authority of sewerage infrastructure. DSD's comments on the SIA submitted by the applicant are subject to views and agreement of EPD.



.....	Metal fence wall (2m high)
---	Application Site Boundary
■	On Grade L/U/L Bay
■	Lift Lobby/ Lift
■	Residential Towers

* Layout shown is indicative and for reference only.

		Title Revised Indicative Block Plan	
Checked	DH	Drawn	PW
Rev	0	Date	Aug 2014
Scale	1:1000		Figure
			3.1



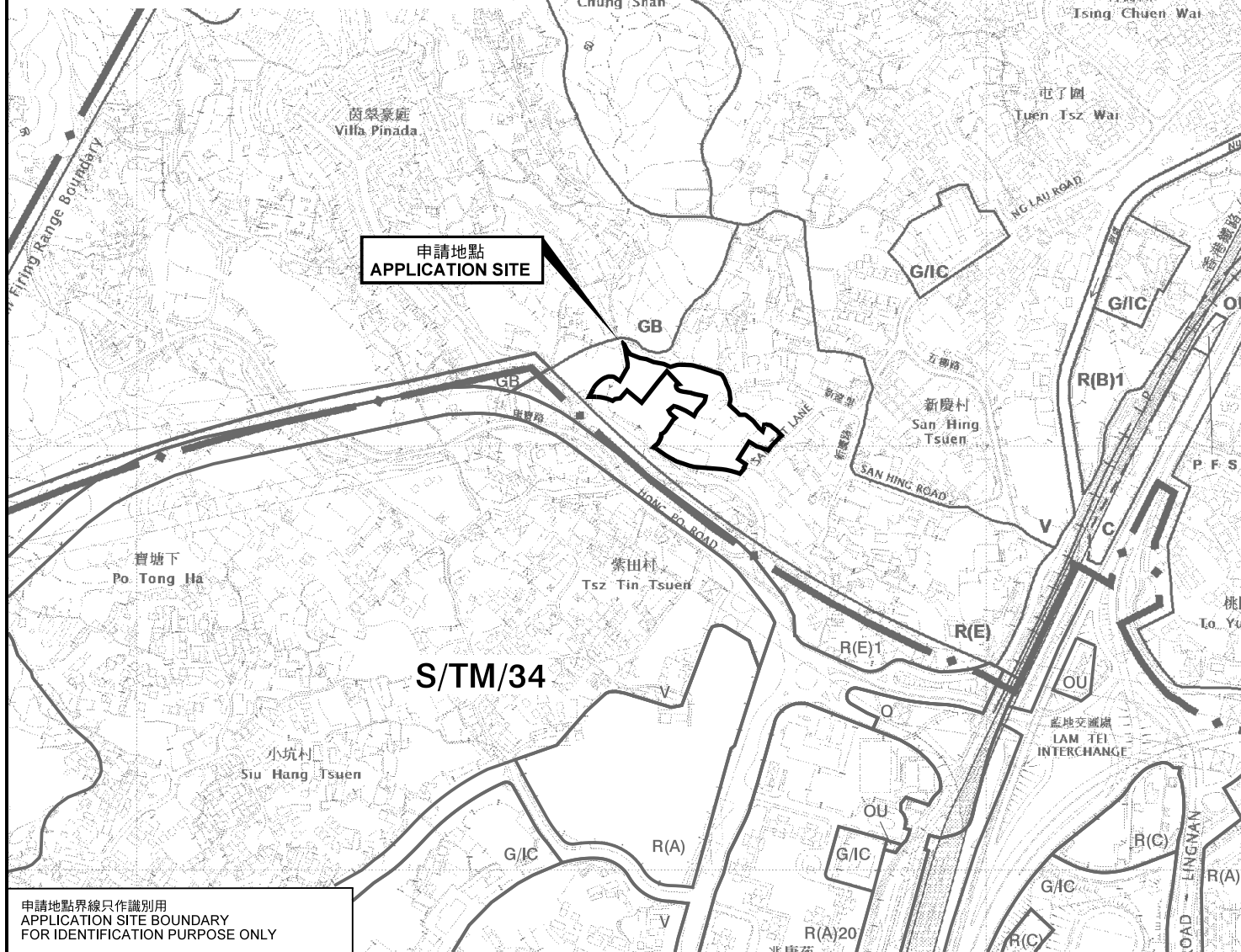
要覽圖 KEY PLAN

SCALE 1 : 50 000 比例尺



S/TM-LTY/9

S/HSK/1



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

位置圖 LOCATION PLAN

擬議住宅發展(分層樓宇)

新界屯門藍地丈量約份第130約地段第212號餘段、第232號、第233號、
第234號、第235號、第236號餘段、第237號、第238號、第239號、
第243號、第244號、第246號餘段、第246號A分段、
第246號B分段、第247號、第367號及第368號餘段和毗連政府土地

PROPOSED RESIDENTIAL DEVELOPMENT (FLAT)

LOTS 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243,
244, 246 RP, 246 S.A, 246 S.B, 247, 367 AND 368 RP IN D.D. 130

AND ADJOINING GOVERNMENT LAND, LAM TEI, TUEN MUN, NEW TERRITORIES

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/TM-LTY/273-1

圖 PLAN

AA-1

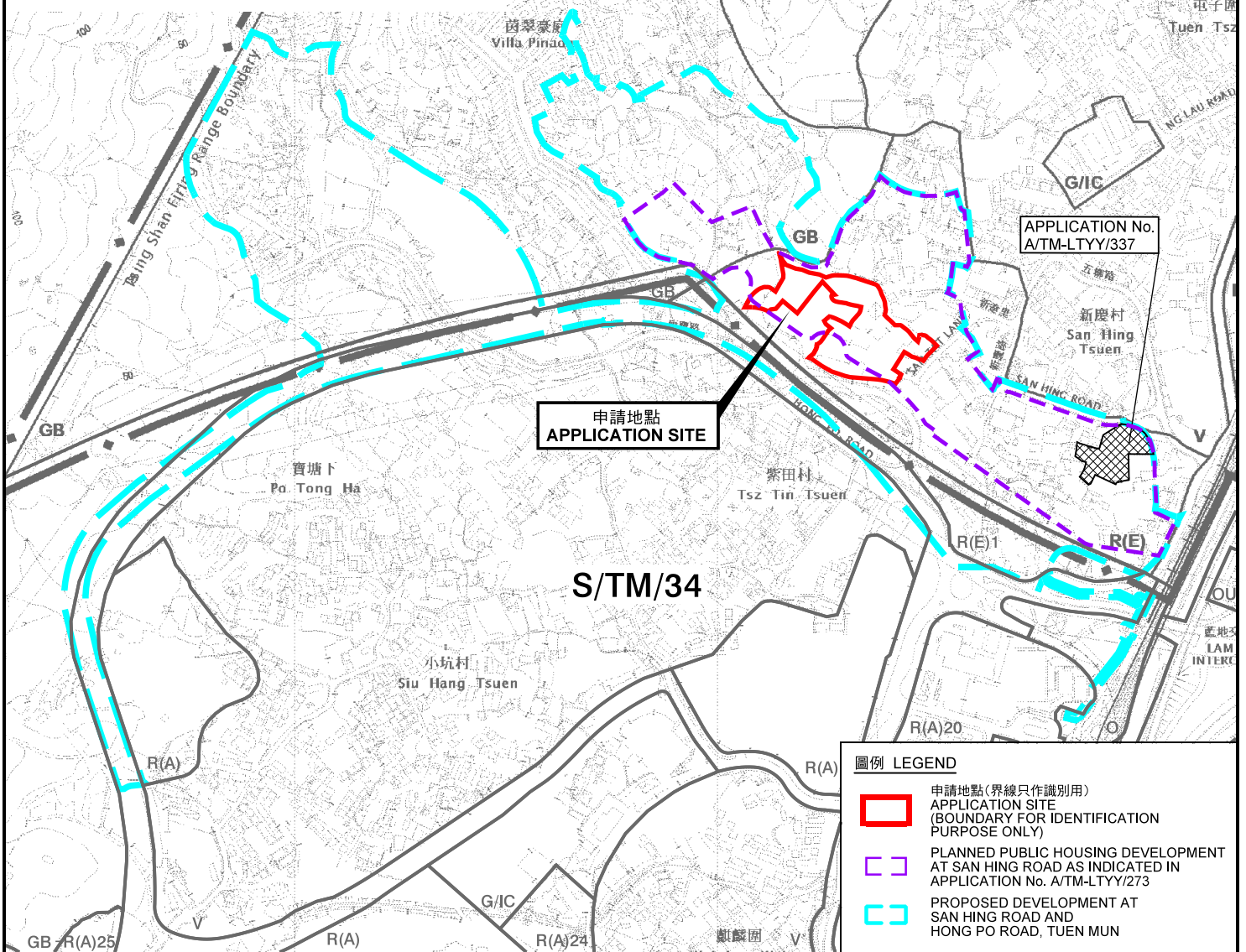
本摘要圖於2018年4月3日擬備，
所根據的資料為於2017年5月26日
展示的分區計劃大綱圖編號 S/TM-LTY/9
EXTRACT PLAN PREPARED ON 3.4.2018
BASED ON OUTLINE ZONING PLAN No.
S/TM-LTY/9 EXHIBITED ON 26.5.2017



申請地點
APPLICATION SITE

要覽圖 KEY PLAN

SCALE 1 : 50 000 比例尺






申請地點
APPLICATION SITE

APPLICATION No.
A/TM-LTTY/337

S/TM/34

圖例 LEGEND

-  申請地點(界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION
PURPOSE ONLY)
-  PLANNED PUBLIC HOUSING DEVELOPMENT
AT SAN HING ROAD AS INDICATED IN
APPLICATION No. A/TM-LTTY/273
-  PROPOSED DEVELOPMENT AT
SAN HING ROAD AND
HONG PO ROAD, TUEN MUN

本摘要圖於2018年4月12日擬備，
所根據的資料為於2017年5月26日
展示的分區計劃大綱圖編號 S/TM-LTTY/9
EXTRACT PLAN PREPARED ON 12.4.2018
BASED ON OUTLINE ZONING PLAN No.
S/TM-LTTY/9 EXHIBITED ON 26.5.2017

屯門新慶路及康寶路的擬議發展位置圖
LOCATION PLAN OF PROPOSED DEVELOPMENT AT
SAN HING ROAD AND HONG PO ROAD, TUEN MUN

擬議住宅發展(分層樓宇)
新界屯門藍地丈量約份第130約地段第212號餘段、第232號、第233號、
第234號、第235號、第236號餘段、第237號、第238號、第239號、
第243號、第244號、第246號餘段、第246號A分段、
第246號B分段、第247號、第367號及第368號餘段和毗連政府土地
PROPOSED RESIDENTIAL DEVELOPMENT (FLAT)
LOTS 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243,
244, 246 RP, 246 S.A, 246 S.B, 247, 367 AND 368 RP IN D.D. 130
AND ADJOINING GOVERNMENT LAND, LAM TEI, TUEN MUN, NEW TERRITORIES
SCALE 1 : 7 500 比例尺

米 100 0 100 200 300 米
METRES

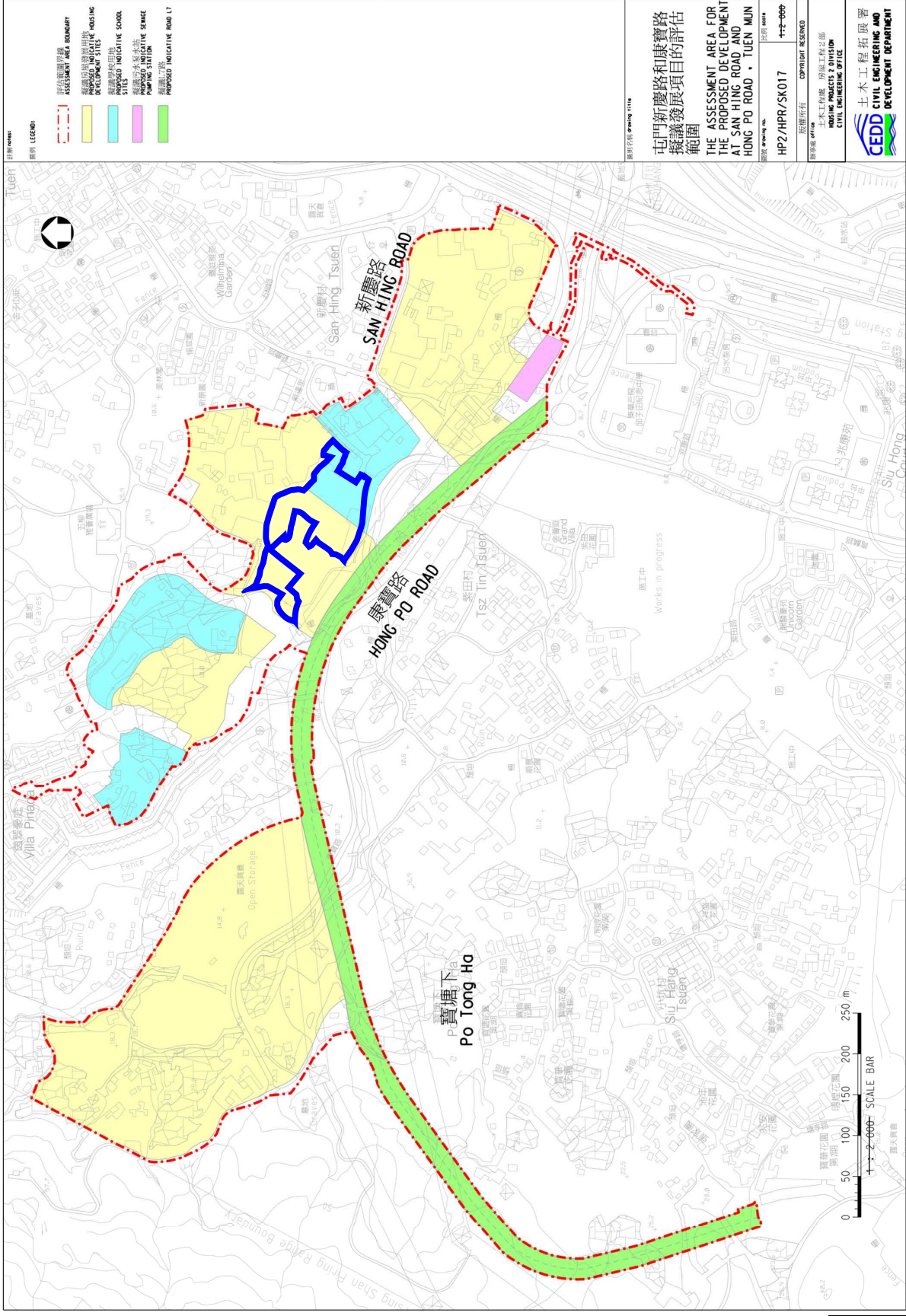
規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.

A/TM-LTTY/273-1

圖 PLAN
AA-1a



- 圖例 (LEGEND):
- 評估範圍界線 / ASSESSMENT AREA BOUNDARY
 - 建議發展區地塊 / PROPOSED DEVELOPMENT SITES
 - 建議學校地塊 / PROPOSED INDICATIVE SCHOOL
 - 建議污水渠地塊 / PROPOSED INDICATIVE SEWAGE
 - 建議 L7 道路 / PROPOSED INDICATIVE ROAD L7

圖則名稱: 屯門新慶路及康寶路擬議發展項目的評估範圍

THE ASSESSMENT AREA FOR THE PROPOSED DEVELOPMENT AT SAN HING ROAD AND HONG PO ROAD, TUEN MUN

圖則編號: HP2/AHR/SK017

日期: 11-2-2008

經核准: 註冊師在內

專業機構: 土木工程處 房屋工程分部
CIVIL ENGINEERING DEPARTMENT

土木工程師拓展署
CIVIL ENGINEERING AND DEVELOPMENT DEPARTMENT

圖例 LEGEND

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

本摘要圖於2018年4月6日製作
EXTRACT PLAN PREPARED ON 6.4.2018

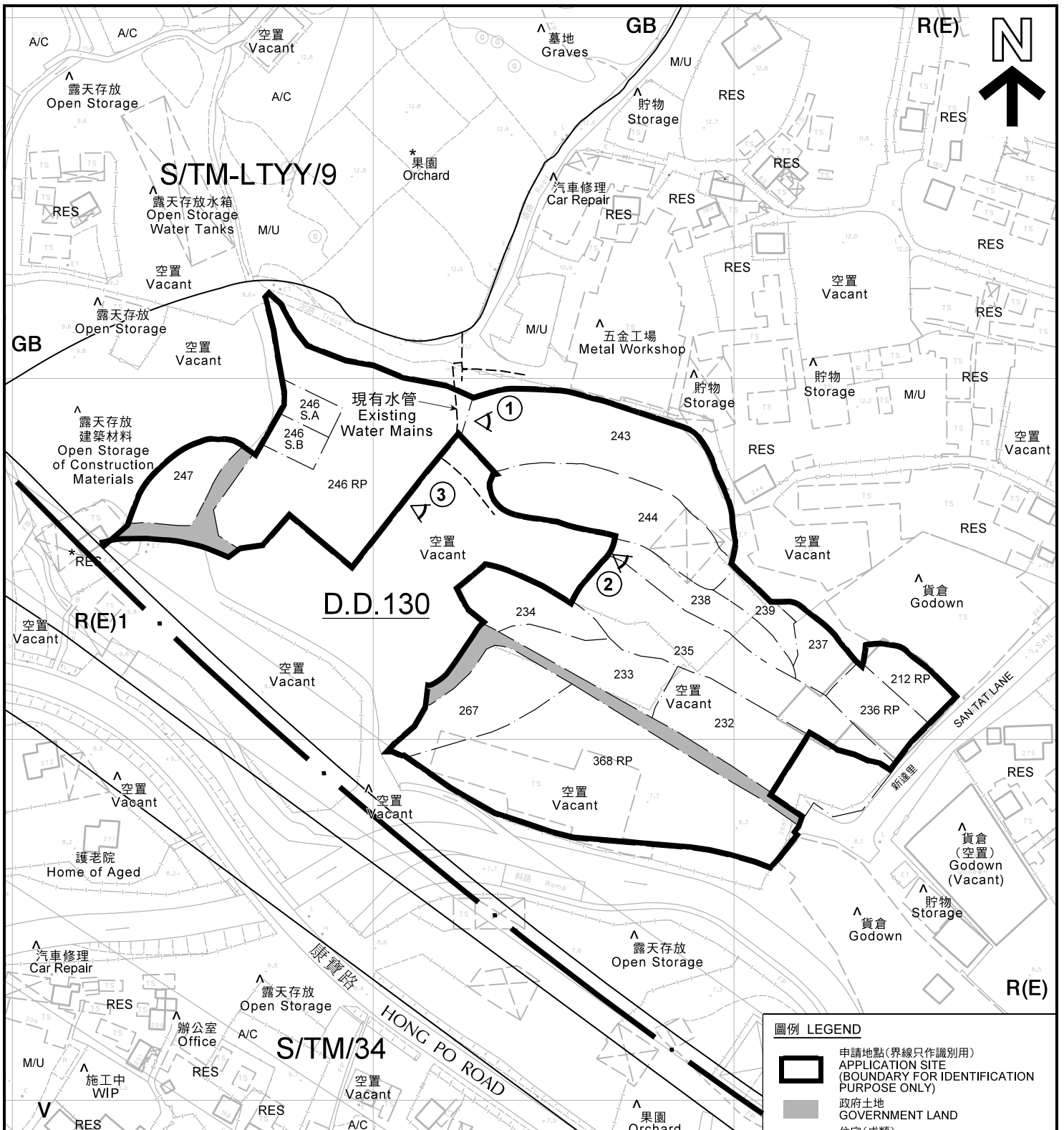
屯門新慶路及康寶路的擬議發展
PROPOSED DEVELOPMENT AT SAN HING ROAD AND HONG PO ROAD, TUEN MUN

新界屯門區地庫的物業 130 份地段第 21、22 號地段、第 23 2 號、第 23 3 號、第 23 4 號、第 23 5 號、第 23 6 號地段、第 23 7 號、第 23 8 號地段、第 23 9 號、第 24 4 6 號地段、第 24 7 號、第 24 8 號及第 24 9 號地段均屬政府土地
PROPOSED RESIDENTIAL DEVELOPMENT (FLAT)
LOTS 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 AND 368 RP IN D.D. 130 AND ADJOINING GOVERNMENT LAND, LAM TEI, TUEN MUN, NEW TERRITORIES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
A/TM-LTYT/273-1

圖 PLAN
AA-1b



註釋 Notes:

- (1) 2018年3月29日勘測的土地用途
Land uses shown on this plan are in accordance with the land use survey conducted by the Planning Department on 29.3.2018
- (2) * 土地用途跟1993年7月6日勘測的土地用途一致
Indicates that the use is the same as that revealed by the land use survey conducted by the Planning Department on 6.7.1993
- (3) ^ 土地用途跟1993年7月6日勘測的土地用途有別
Indicates that the use is different from that revealed by the land use survey conducted by the Planning Department on 6.7.1993

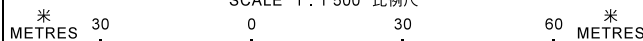
圖例 LEGEND

- 申請地點(界線只作識別用)
APPLICATION SITE (BOUNDARY FOR IDENTIFICATION PURPOSE ONLY)
- 政府土地
GOVERNMENT LAND
- R(E)** 住宅(成類)
RESIDENTIAL (GROUP E)
- V** 鄉村式發展
VILLAGE TYPE DEVELOPMENT
- GB** 綠化地帶
GREEN BELT
- RES** 住用構築物
RESIDENTIAL STRUCTURES
- M/U** 荒地
UNUSED LAND
- A/C** 常耕農地
CULTIVATED AGRICULTURAL LAND
- 實地照片的觀景點
VIEWING POINT OF SITE PHOTO

平面圖 SITE PLAN

本摘要圖於2018年4月16日擬備，所根據的資料為測量圖編號6-NW-16C、16D、21A及21B
EXTRACT PLAN PREPARED ON 16.4.2018
BASED ON SURVEY SHEETS No. 6-NW-16C, 16D, 21A & 21B

擬議住宅發展(分層樓宇)
新界屯門藍地丈量約份第130約地段第212號餘段、第232號、第233號、第234號、第235號、第236號餘段、第237號、第238號、第239號、第243號、第244號、第246號餘段、第246號A分段、第246號B分段、第247號、第367號及第368號餘段和毗連政府土地
PROPOSED RESIDENTIAL DEVELOPMENT (FLAT)
LOTS 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 AND 368 RP IN D.D. 130
AND ADJOINING GOVERNMENT LAND, LAM TEI, TUEN MUN, NEW TERRITORIES
SCALE 1 : 1 500 比例尺



**規劃署
PLANNING
DEPARTMENT**



參考編號
REFERENCE No.

A/TM-LTY9/273-1

圖 PLAN

AA-2



本圖於2018年4月4日擬備，所根據的資料為攝於2018年3月29日的實地照片
 PLAN PREPARED ON 4.4.2018
 BASED ON SITE PHOTOS
 TAKEN ON 29.3.2018

實地照片 SITE PHOTOS

擬議住宅發展(分層樓宇)
 新界屯門藍地丈量約份第130約地段第212號餘段、第232號、第233號、
 第234號、第235號、第236號餘段、第237號、第238號、第239號、
 第243號、第244號、第246號餘段、第246號A分段、
 第246號B分段、第247號、第367號及第368號餘段和毗連政府土地
 PROPOSED RESIDENTIAL DEVELOPMENT (FLAT)
 LOTS 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243,
 244, 246 RP, 246 S.A, 246 S.B, 247, 367 AND 368 RP IN D.D. 130
 AND ADJOINING GOVERNMENT LAND, LAM TEI, TUEN MUN, NEW TERRITORIES

規劃署
 PLANNING
 DEPARTMENT



參考編號
 REFERENCE No.
 A/TM-LTY/273-1

圖 PLAN
 AA-3

Extract of Minutes of RNTPC Meeting on 20.4.2018

Agenda Item 18

Section 16A Application

[Closed Meeting]

A/TM-LTY Y/273-1 Proposed Extension of Time for Commencement of the Proposed Residential Development (Flat) for a Period of 4 Years until 17.10.2022 in “Residential (Group E)” Zone, Lots 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 and 368 RP in D.D. 130 and Adjoining Government Land, Lam Tei, Tuen Mun

(RNTPC Paper No. A/TM-LTY Y/273-1)

75. The Secretary reported that the application was submitted by Join Smart Limited, which was a subsidiary of Sun Hung Kai Properties Limited (SHK), with Llewelyn-Davies Hong Kong Limited (LD) as the consultant of the applicant. The application site would encroach onto part of a planned public housing development at San Hing Road by the

Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA). The following Members had declared interests on the item:

- | | | |
|----------------------------------------------------------------------------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------|
| Mr Raymond K.W. Lee
(the Chairman)
<i>as the Director of
Planning</i> | - | being a member of the Strategic Planning Committee (SPC) and the Building Committee of HKHA; |
| Mr Martin W.C. Kwan
<i>as the Chief Engineer
(Works), Home Affairs
Department</i> | - | being an alternate representative of the Director of Home Affairs who was a member of the SPC and the Subsidized Housing Committee of HKHA; |
| Mr Ivan C.S. Fu | - | having current business dealings with SHK and past business dealings with HKHA; |
| Dr C.H. Hau | - | having current business dealings with HKHA; |
| Miss Winnie W.M. Ng | - | being a Director of the Kowloon Motor Bus (1933) Company Limited (KMB) and SHK was one of the shareholders of KMB; |
| Mr Stephen L.H. Liu | - | having past business dealings with SHK, LD and HKHA; |
| Mr K.K. Cheung | - | his firm having current business dealings with SHK and HKHA; and |
| Mr Ricky W.Y. Yu | - | his firm having current business dealings with LD. |

76. The Committee noted that Mr Ivan C.S. Fu and Mr Stephen L.H. Liu had tendered apologies for being unable to attend the meeting. The Committee agreed that as the interests of the Chairman, Mr Martin W.C. Kwan, Dr C.H. Hau and Miss Winnie W.M. Ng were direct, they should leave the meeting temporarily for the item. The Committee also agreed that Mr K.K. Cheung and Mr Ricky W.Y. Yu could stay in the meeting as they had no involvement in the application. Mr H.W. Cheung, the Vice-chairman, took over the chairmanship at this point.

[The Chairman, Mr Martin W.C. Kwan, Dr C.H. Hau and Miss Winnie W.M. Ng left the meeting temporarily at this point.]

77. The Secretary reported and Members noted that the Secretariat received a total of three letters dated 17.4.2018 and 19.4.2018 from the applicant's representative and legal representative, raising further justifications and legal issues related to the subject application for extension of time. Copies of the three letters were tabled at meeting for Members' reference.

78. The Vice-chairman drew Members' attention to legal issues raised by the applicant's legal representative. As the Committee's decision might be subject to legal challenge, Members considered that legal advice should be sought on such issues before consideration of the subject application.

79. After deliberation, the Committee decided to defer a decision on the application to allow time for the Secretariat to seek legal advice on the legal issues raised in the letters prior to the consideration of the subject application.

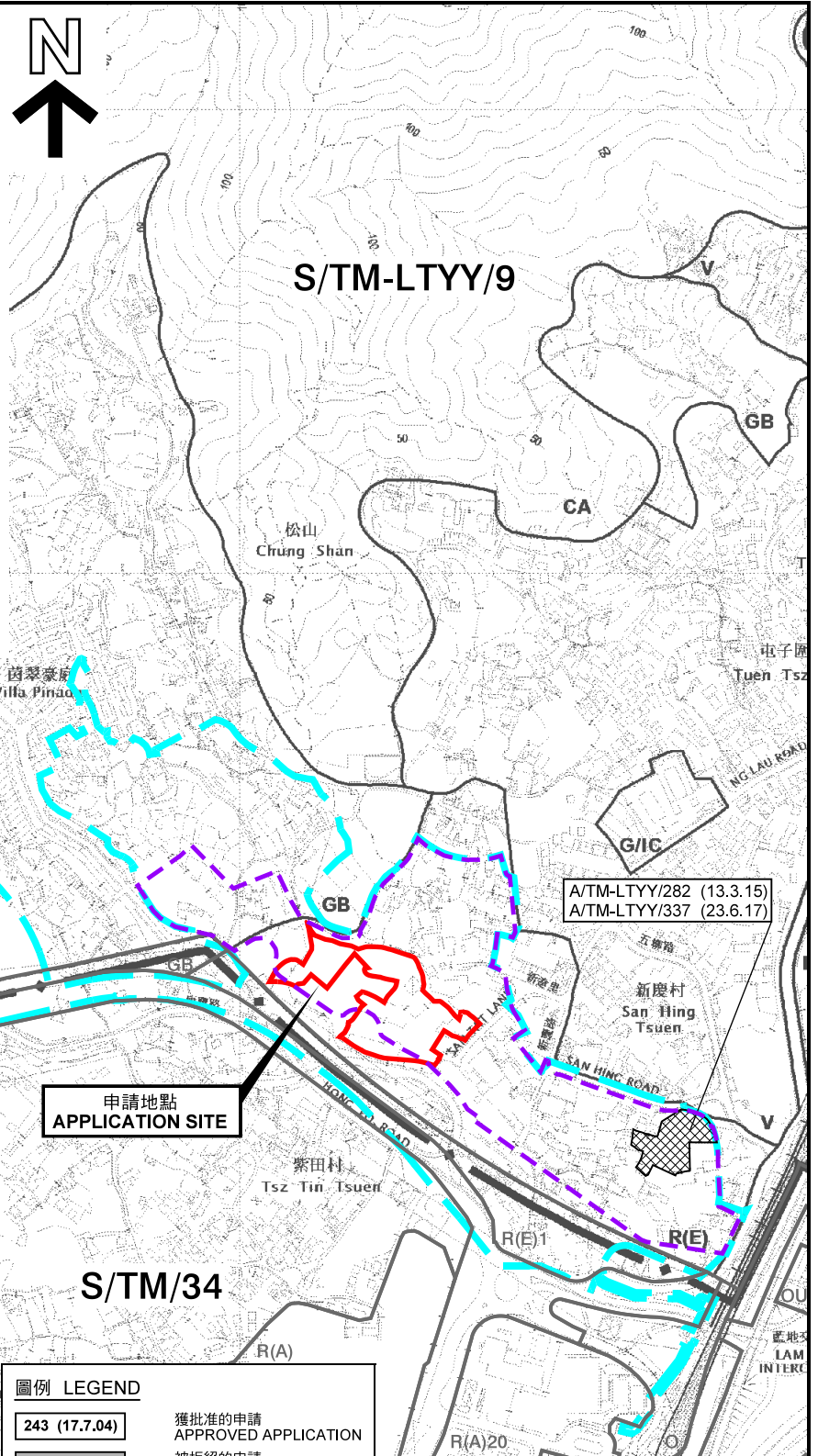
[The Chairman, Dr C.H. Hau and Miss Winnie W.M. Ng returned to the meeting at this point.]



申請地點
APPLICATION SITE

要覽圖 KEY PLAN

SCALE 1 : 50 000 比例尺



申請地點
APPLICATION SITE

S/TM/34

圖例 LEGEND

- 243 (17.7.04) 獲批准的申請
APPROVED APPLICATION
- 244 (17.7.04) 被拒絕的申請
REJECTED APPLICATION
- 72 (10.9.99) X 已撤銷
REVOKED
- 會議日期
DATE OF MEETING
- 申請編號
APPLICATION NUMBER
- 申請地點界線只作識別用
APPLICATION SITE BOUNDARY
FOR IDENTIFICATION PURPOSE ONLY

圖例 LEGEND

- 申請地點(界線只作識別用)
APPLICATION SITE
(BOUNDARY FOR IDENTIFICATION
PURPOSE ONLY)
- PLANNED PUBLIC HOUSING DEVELOPMENT
AT SAN HING ROAD AS INDICATED IN
APPLICATION No. A/TM-LTTY/273
- PROPOSED DEVELOPMENT AT
SAN HING ROAD AND
HONG PO ROAD, TUEN MUN

本摘要圖於2018年6月11日擬備，
所根據的資料為於2017年5月26日
展示的分區計劃大綱圖編號 S/TM-LTTY/9
EXTRACT PLAN PREPARED ON 11.6.2018
BASED ON OUTLINE ZONING PLAN No.
S/TM-LTTY/9 EXHIBITED ON 26.5.2017

屯門新慶路及康寶路的擬議發展位置圖
LOCATION PLAN OF PROPOSED DEVELOPMENT AT
SAN HING ROAD AND HONG PO ROAD, TUEN MUN

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PROPOSED RESIDENTIAL DEVELOPMENT (FLAT)
LOTS 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243,
244, 246 RP, 246 S.A, 246 S.B, 247, 367 AND 368 RP IN D.D. 130
AND ADJOINING GOVERNMENT LAND, LAM TEI, TUEN MUN, NEW TERRITORIES
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/TM-LTTY/273-1

圖 PLAN
FAA-1

Extract of Minutes of RNTPC Meeting on 20.4.2018

Agenda Item 18

Section 16A Application

[Closed Meeting]

A/TM-LTYYY/273-1 Proposed Extension of Time for Commencement of the Proposed Residential Development (Flat) for a Period of 4 Years until 17.10.2022 in “Residential (Group E)” Zone, Lots 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 and 368 RP in D.D. 130 and Adjoining Government Land, Lam Tei, Tuen Mun

(RNTPC Paper No. A/TM-LTYYY/273-1)

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<i>as the Director of
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| Mr Martin W.C. Kwan
<i>as the Chief Engineer
(Works), Home Affairs
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| Dr C.H. Hau | - | having current business dealings with HKHA; |
| Miss Winnie W.M. Ng | - | being a Director of the Kowloon Motor Bus (1933) Company Limited (KMB) and SHK was one of the shareholders of KMB; |
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[The Chairman, Dr C.H. Hau and Miss Winnie W.M. Ng returned to the meeting at this point.]

Agenda Item 57

Section 16A Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-LTYYY/273-1 Proposed Extension of Time for Commencement of the Proposed Residential Development (Flat) for a Period of 4 Years until 17.10.2022 in “Residential (Group E)” Zone, Lots 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 S.A, 246 S.B, 247, 367 and 368 RP in D.D. 130 and Adjoining Government Land, Lam Tei, Tuen Mun
(RNTPC Paper No. A/TM-LTYYY/273-1A)

197. The Secretary reported that the application was submitted by Join Smart Limited which was a subsidiary of Sun Hung Kai Properties Limited (SHK), with Llewelyn-Davies Hong Kong Limited (LD), Ronald Lu & Partners (Hong Kong) Limited (RLP) and AECOM Asia Co. Ltd. (AECOM) as three of the consultants of the applicant. The application site would encroach onto part of a planned public housing development at San Hing Raod proposal by the Housing Department (HD), which was the executive arm of the Hong Kong Housing Authority (HKHA). The following Members had declared interests on the item:

- Mr Raymond K.W. Lee (the Chairman) *as the Director of Planning* - being a member of the Strategic Planning Committee (SPC) and the Building Committee of HKHA;
- Mr Martin W.C. Kwan *as the Chief Engineer (Works), Home Affairs Department* - being an alternate representative of the Director of Home Affairs who was a member of the SPC and the Subsidized Housing Committee of HKHA;
- Mr Ivan C.S. Fu - having current business dealings with SHK and AECOM and past business dealings with HKHA;
- Mr K.K. Cheung - his firm having current business dealings with SHK and HKHA;
- Dr C.H. Hau - having current business dealings with AECOM and the institute he served was having current business dealings with HKHA;
- Mr Stephen L.H. Liu - having past business dealings with SHK, LD, RLP and HKHA;
- Miss Winnie W.M. Ng - being a Director of the Kowloon Motor Bus Company (1933) Ltd. (KMB) and SHK was one of the shareholders of KMB; and
- Mr Ricky W.Y. Yu - his firm having current business dealings with LD.

198. The Committee noted that Mr Ivan C.S. Fu, Mr K.K. Cheung and Mr Stephen L.H. Liu had tendered apologies for being unable to attend the meeting. The Committee agreed that as the interests of the Chairman, Mr Martin W.C. Kwan and Miss Winnie W.M. Ng were direct, they should be invited to leave the meeting temporarily. The Committee also agreed that Dr C.H. Hau and Mr Ricky W.Y. Yu could stay in the meeting as they had no involvement in the application.

[The Chairman and Mr Martin W.C. Kwan left the meeting temporarily and the Vice-chairman took over the chairmanship at this point.]

[Miss Winnie W.M. Ng left the meeting at this point.]

Presentation and Question Sessions

199. Mr David C.M. Lam, DPO/TMYLW, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application - due to departmental objection to the application for the extension of time (EOT) for commencement of the approved development under application No. A/TM-LTYYY/273, the case was submitted to the Committee for consideration at its meeting held on 20.4.2018. After deliberation, the Committee decided to defer a decision on the application to allow time to seek advice on the legal issues raised in the letters submitted by the applicant prior to the meeting;
- (b) the proposed extension of time for commencement of the proposed residential development (flat) was for a period of four years;
- (c) departmental comments – departmental comments were set out in paragraph 4 of the Paper. The Director of Housing (DH) and Head of Civil Engineering Office, Civil Engineering and Development Department (Head of CEO, CEDD) maintained their previous comments as stated in paragraph 7 in Annex A of the Paper. DH did not support the application since CEDD was conducting the Site Formation and Infrastructural Works for the Development at San Hing Road and Hong Po Road, Tuen Mun – Feasibility Study (the Feasibility Study) for a planned public housing development in the area including the subject site. The Head of CEO, CEDD, advised that the Feasibility Study was commenced in February 2018 and scheduled for completion in Q1 2020. The subject land lots under application (for private residential development) would encroach onto Housing Department’s (HD) public housing development site at San Hing Road. Other concerned government departments had no objection to or no adverse comments on the application;

- (d) the Planning Department (PlanD)'s views – PlanD did not support the EOT application based on the assessments set out in paragraph 5 of the Paper. The applicant's legal representative claimed that when determining the current section 16A application, the Committee could not take into account the proposed public housing development which was outside the parameters of the Outline Zoning Plan (OZP). According to the advice obtained, (i) an OZP and the Notes, (ii) the Explanatory Statement (ES) and (iii) the Town Planning Board Guidelines were relevant documents for the Town Planning Board (the Board) in considering planning applications. In the present case, the Committee should consider the planning intention under the OZP as well as the Town Planning Board Guidelines No. 35C on Extension of Time for Commencement of Development (TPB PG-No. 35C). The Government had explored whether the proposed housing developments in the area could be adjusted to take into account the approved private housing development. Given the acute demand for public housing, the Government had enlarged the scale of the San Hing Road and Hong Po Road public housing project and the Feasibility Study for the project had commenced in February 2018. At the Tuen Mun District Council (TMDC) meeting held on 1.11.2016, TMDC Members expressed the views that TMDC indeed supported the proposed public housing development at San Hing Road. While the land use zoning for the site remained unchanged as "Residential (Group E)" ("R(E)") since 2014, there was a material change in circumstances when compared to the time when the application was last considered by the Committee in 2014 in that the Government had committed to undertake a comprehensive public housing development which covered the application site and the related Feasibility Study including an Environmental Impact Assessment Study had commenced. The EOT application was not in line with TPB PG-No. 35C in that there had been a material change in planning circumstances and approval of the EOT would run against the clear government policy on the planned land use for the area.

200. The Vice-chairman and a Member made enquiries on the following items:

- (a) the planning intention of the subject “R(E)” zone;
- (b) given that the site formed part of a public housing development proposed by HD, whether the Government had any intention to rezone the site from “R(E)” to other appropriate zoning to facilitate the development;
- (c) why a time limit was imposed for the commencement of the approved development proposal and the number of years allowed for the commencement of development;
- (d) what criteria should be considered in assessing an EOT application and how the EOT would be determined;
- (e) whether the progress of fulfilment of approval conditions related to the current application was relevant consideration in the EOT application and whether there were any technical/practical problems encountered by the applicant in fulfilling the approval conditions; and
- (f) whether a fresh planning application could be submitted for a site which was subject to an approved scheme. If the answer was affirmative, whether the consideration of the second application would be different.

201. Mr David C.M. Lam, DPO/TMYLW, made the following responses:

- (a) the planning intention of the subject “R(E)” zone was set out in paragraph 6 of Annex A of the Paper;
- (b) the Government had shown clear intention to implement public housing development at San Hing Road/Hong Po Road including the application site and zoning amendment for the site would be submitted to the Committee for consideration upon completion of the Feasibility Study in 2020;
- (c) the time-limited condition attached to planning permission imposed by the

Board was to ensure that the approved development proposals would be implemented within a reasonable period. According to the established practice, a 4-year period was allowed for the commencement of a development proposal for permanent use. According to TPB PG-No. 35C, in general, approval of building plans or execution of the land grant/lease modification would constitute a commencement of development. If an approved development could not commence within the specified time limit, the applicant could apply for an EOT for commencement of the development;

- (d) according to TPB PG-No. 35C, any EOT for commencement of development should not result in an aggregate extension period longer than the original duration for commencement of the approved development proposal i.e. four years in the current case. TPB PG-No. 35C had provided clear assessment criteria for EOT applications, which included whether there had been any material change in planning circumstances since the original permission was granted, whether there were technical/practical problems which were beyond the control of the applicant, etc. The Board would consider each case based on its individual merits;
- (e) a number of approval conditions regarding various technical aspects had been attached to the approved scheme. The intention of imposing approval conditions was to allow relevant government departments to ensure the design and implementation of various technical aspects at the detailed design stage were up to their satisfaction. The approval conditions could be broadly divided into two types (i) those required to be complied with before building plan approval (i.e. those which would affect the detailed design of the development) and (ii) those required to be complied with after building plan approval (i.e. those related to the implementation of technical proposals). In the current application, some of the technical assessments such as sewerage impact assessment and traffic arrangement had been submitted and relevant government departments had no-principle objection to the proposals. As shown in

paragraph 5.5 of the Paper, some approval conditions had been complied/partially complied with while some were to be complied with at the implementation stage; and

- (f) there was no restriction on the number of planning applications submitted for the same site, i.e. an applicant could submit more than one application and there could be more than one planning permission for a site. The Board would consider the individual merits of the development proposal in each application.

[Dr Lawrence K.C. Li left the meeting at this point.]

Deliberation Session

202. The Secretary reported that two letters from the applicant's representative and legal representative were received on 14.6.2018, which were tabled at the meeting. While further justifications in support of the legal issues related to the subject application were raised in the letters, it was noted that the arguments were more or less similar to those raised before. Members also noted that another application (No. A/TM-LTY/337) quoted in the letter was approved by the Committee and the permission was valid till 23.6.2021. Each application should be considered on its individual merits and circumstances.

203. The Secretary reported that legal advice had been sought with respect to the *International Trader* case quoted by the applicant's legal representative. The Court of Appeal's judgement on the *International Trader* case had been issued to Members earlier on. The legal advice was that the case was relevant to the current EOT application in the sense that it provided guidance as to what kind of documents that the Committee might rely on when ascertaining the true planning intention contained in an OZP. In this regard, the Court of Appeal decided that (i) an OZP and the Notes attached thereto were obviously material documents that the Board was bound to have regard to; (ii) the ES, although not forming part of an OZP, was prepared by the Board to assist in an understanding of the same; and (iii) although the Board was not bound to follow an ES or any TPB Guidelines, such documents could not be disregarded. In processing EOT applications, TPB PG-No. 35C was the relevant Guidelines for the Board to make reference to and a number of assessment criteria

had been set out in the Guidelines. Those assessment criteria were planning considerations rather than legal grounds. The Board should take into account the relevant assessment criteria and consider whether the applicant had complied with those criteria.

204. Members went through the assessment criteria set out in TPB PG-No. 35C (paragraph 3.2 of the Paper). With respect to criterion (a) on whether there was a material change in planning circumstances since the original permission was granted, some Members had the following views:

- (a) the original planning application was approved in 2014 on the considerations, among others, that the proposed public housing development was still at the conceptual stage without the support of TMDC. However, the Government had decided to pursue a larger scale public housing development at San Hing Road/Hong Po Road and fundings had been allocated to CEDD to conduct the Feasibility Study, which was commenced in February 2018 for completion in Q1 2020. Besides, it was clarified by some TMDC Members that TMDC indeed supported the proposed public housing development and its concern raised in 2014 was mainly related to the lack of detailed planning information and inadequate local consultation. As the Government had a clear policy on the planned land use for the area and greater commitment in the proposed comprehensive public housing development, the prospect of implementation of the public housing development could be substantiated; and
- (b) comparing with the situation in 2014, there was a more pressing need for public housing and the Government's latest policy was to increase land supply for public housing development. The latest policy had been made known to the public in various documents and occasions.

205. Regarding criterion (b) on whether there were any adverse planning implications arising from the EOT, some Members considered that it was incumbent on the Board to strike a balance between private development rights and public interest. In the current case, public housing development to meet the pressing housing need was in the public interest. The

approval of the EOT application would have adverse implication on the public housing development and hence would not be in the public interest.

206. Regarding criterion (c) on whether the commencement of development was delayed due to some technical/practical problems which were beyond the control of the applicant, Members noted that the applicant had taken follow-up actions including submission for compliance with approval conditions, building plans and application for land exchange, to take forward the approved development scheme. Some of the approval conditions had been complied/partially complied with. It did not appear that there were fundamental technical problems in association with the implementation of the development.

207. With respect to criterion (f) on whether the applicant had demonstrated that there was a good prospect to commence the proposed development within the extended time limit, some Members considered that four years had already been given to the applicant to commence the development but neither building plan approval had been obtained nor land exchange agreement had been reached. There was doubt on the prospect of commencement of the development within the extended time limit should the EOT application be approved.

208. Regarding criteria (d), (e) and (g), some Members considered that the applicant had demonstrated that reasonable actions had been taken for the implementation of the approved development and in complying with the approval conditions, and that the extension period applied for in the current application was not unreasonable. Nevertheless, Members generally considered that there had been a material change in planning circumstances since the original application was granted and that the applicant had failed to demonstrate there was a good prospect to commence the proposed development within the extended time limit.

209. After deliberation, the Committee decided to reject the application for the following reason:

“the application is not in line with Town Planning Board Guidelines No. 35C on Extension of Time for Commencement of Development in that there has been a material change in planning circumstances as the Government has committed to plan for a comprehensive public housing development which covers the application site, and the applicant fails to demonstrate that there is a good prospect to

commence the proposed development within the extended time limit.”

[Mr David C.M. Lam, DPO/TMYLW, left the meeting at this point.]

[The Chairman and Mr Martin W.C. Kwan returned to the meeting and the Chairman resumed the chairmanship at this point.]

Advisory Clauses

- (a) the approval of the application does not imply that the proposed building design elements could fulfill the requirements under the Sustainable Building Design Guidelines and the relevant requirements under the lease, and that the proposed gross floor area (GFA) concession for the proposed development will be approved/granted by the Building Authority. The applicant should approach the Buildings Department (BD) and the Lands Department (LandsD) direct to obtain the necessary approval. If the building design elements and the GFA concession are not approved/granted by the Building Authority and the Lands Authority and major changes to the current scheme are required, a fresh planning application to the Board may be required;
- (b) to note the comments of the DLO/TM, LandsD that the site comprises a total of 17 private lots and adjoining unleased Government land. The private lots are Old Scheduled Agricultural Lots, except Lot 368 RP in D.D. 130, which is held under Tai Po New Grant No. 5324, the lease conditions of which cannot be found in the Land Registry. The proposed residential development contravenes the existing lease conditions and involves adjoining Government land. The applicant will need to apply to the LandsD for a land exchange for the proposal. There is no guarantee that the application, if received by the LandsD, will be approved and he reserves his comment on such. The application will be considered by the LandsD acting in the capacity as the landlord at its sole discretion. In the event that if the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, charging the payment of premium and administration fee as may be imposed by the LandsD. The quality and sustainable built environment (QBE) requirements in relation to building separation, building setback, greenery, 10% cap on the GFA concession in respect of green/amenity features and non-essential plant room/services and 100% GFA concession where car parks are provided underground and 50% GFA concession for car parks provided above ground unless exemption for granting 100% GFA concession for above ground car parks is approved by the Building Authority, where applicable, will be imposed in the lease for cases involving lease modification and land exchange. The applicability of each QBE requirement for the proposed residential development will be examined in detail during the processing of the land exchange application. Apart from the track at the northwestern corner of the site, it appears that there are other village track(s) affected by the proposed development. If planning approval is given, detailed access arrangements to the site and the adjoining land, including but not limited to the said footpaths/tracks, will be examined at the land exchange processing stage. Should the proposal involve closure of existing footpaths/tracks, such closure requires to go through the statutory procedures set out in the Road (Works, Use and Compensation) Ordinance (Cap. 370) and may require the gazettal under section 5 of Cap. 370. The gazetting procedures for the concerned modification works to facilitate a private development, if required, would be carried out by his Office and the applicant would be liable to pay the Government all the costs on such works (including administrative costs and non-administrative costs). There is no guarantee that the application, if received by the LandsD, will be eventually approved under the provision of Cap. 370 and he reserve his comment on such. Regarding the local concerns on the possible impact on the existing graves in the vicinity of the site, the applicant should examine whether and how proposed site

boundary or the development design can address the local concern;

- (c) to note the comments of the CBS/NTW, BD that if the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Before any new building works (including 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 Building Works (UBW). An Authorized Person 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 the BD to effect their removal in accordance with the 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. The site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. If the site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. In accordance with the Government's committed policy to implement building design to foster a quality and sustainable built environment, the sustainable building design requirements (including building separation, building setback and greenery coverage) should be included, where possible, in the conditions in the planning approvals. The provision of lighting and ventilation of rooms used or intended to be used for habitation or as kitchen and rooms containing soil fitments shall comply with the requirements stipulated under B(P)R 30 and 36;
- (d) to note the comments of the DEP that the applicant shall apply for license under Water Pollution Control Ordinance for the sewage treatment plant;
- (e) to note the comments of the CE/MN, DSD that the proposed potted trees should not be placed directly on top of the proposed 1600mm(W) x 1600mm(H) rectangular channel and the potted trees should not adversely affect the inspection, operation and maintenance of the channel. Proper access route should be provided to the proposed 1600mm(W) x 1600mm(H) rectangular channel taking into account the size of mechanical plant(s) required for carrying out future operation and maintenance works (e.g. lifting up the concrete channel covers and adjacent potted trees). Detailed comments are at **Annex 7a** (extracted from Appendix IV of RNTPC Paper No. A/TM-LTYY/273C). The Sewerage Impact Assessment (SIA) for the application needs to meet the full satisfaction of the DEP, the planning authority of sewerage infrastructure. The DSD's comments on the SIA are subject to views and agreement of the DEP;
- (f) to note the comments of the CE/LD, DSD that the applicant is reminded that a valid license for discharge from DEP is required before the discharge of effluent of the local sewage treatment plant commences and the requirements of the effluent discharge, e.g. quantity and quality of effluent, should be agreed by the DEP;

- (g) to note the comments of the CE/Dev(2), WSD that existing water mains will be affected. If diversion of the existing water mains is required, the developer shall prior to carrying out the diversion works submit the proposed routing in writing to the Water Authority for approval and the cost of relocating the Government water mains shall be borne by the developer. In case it is not feasible to divert the affected water mains, a Waterworks Reserve within 1.5 m from the centerline of the water mains shall be provided to the 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 contractor, 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 authorized. The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the site;
- (h) to note the comments of the AMO, LCSD that no construction works on the site should commence prior to the compliance with the approval conditions. The archaeological impact assessment report should be conducted by a qualified archaeologist, who shall obtain a licence from the Antiquities Authority under the Antiquities and Monuments Ordinance (Cap. 53);
- (i) to note the comments from the DSW that the private developer may take the opportunity to enhance the site environment by providing more community facilities in the area;
- (j) to note the comments of the DEMS that there are 400 kV overhead lines running close to the proposed development areas. A 50 m working corridor between the proposed development and the concerned 400 kV overhead lines (25 m on either side from the centre line of the transmission line towers) and relevant safety clearances would be maintained in accordance with the HKPSG. According to paragraph 2.3.17 of the HKPSG, building development will not be restricted in areas outside the working corridor and working circle subject to the provision of emergency vehicular access, wherever appropriate as required by the Fire Services Department (FSD). However, for development within the working corridor and working circle, agreement from the Electrical and Mechanical Services Department (EMSD), FSD and the power company should be sought in order to ensure compliance with the safety and health considerations as given in the HKPSG. Prior to establishing any structure within the site, the applicant and/or the applicant's contractors shall liaise with CLP Power (i.e. the electricity supplier) and, if necessary, ask CLP Power to divert the underground electricity cable (and/or overhead electricity line) away from the vicinity of the proposed structure, where practicable. The "Code of Practice on Working near Electricity Supply Lines" established under the Electricity Supply Lines (Protection) Regulation shall be observed by the applicant and the applicant's contractors when carrying out works in the vicinity of the electricity supply lines;
- (k) to note the comments of the D of Health that there are overhead transmission lines and pylons in the vicinity of the proposed residential development. Future

occupants of the residential development may be exposed to extremely low frequency electromagnetic fields generated by the transmission lines. According to the World Health Organization, with compliance with the relevant International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines, exposure to extremely low frequency electromagnetic fields, such as those generated by transmission lines, would not pose any significant adverse effects to workers and the public. As such, the project proponent must ensure that the magnitudes of the electromagnetic fields on-site complied with the relevant ICNIRP guidelines or other established international standards. He notes that the project proponent will ensure the magnitudes of electromagnetic fields on-site complied with the relevant ICNIRP guidelines or other established international standards; and

- (1) to note the comment of DO(TM), HAD that the applicant should keep portion of existing village track falling within the site intact and ensure free and unobstructed access during construction stage and after completion of the proposed development. There is also a proposed District Minor Works project (i.e. proposed improvement to van track and associated facilities) in close proximity to the site which will commence in late 2014. Should there be any interface with the proposed works, the applicant should inform his Office.

Appendix IV of RNTPC
Paper No. A/TM-LTY/273C

Detailed Comments of Government Departments Concerned

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

Drainage Impact Assessment (at Appendix Ik and Im)

Comments

- (a) He has no in-principle objection to the Drainage Impact Assessment (DIA) for the captioned application.
- (b) The applicant should be reminded that the proposed potted trees should not be placed directly on top of the proposed 1600(W) x 1600(H) rectangular channel and the potted trees should not adversely affect the inspection, operation and maintenance of the channel.
- (c) The applicant should be reminded that proper access route should be provided to the proposed 1600(W) x 1600(H) rectangular channel taking into account the size of mechanical plant(s) required for carrying out future operation and maintenance works (e.g. lifting up the concrete channel covers and adjacent potted trees).
- (d) Should the application be approved, the applicant shall submit and implement a detailed drainage proposal for the site to the satisfaction of DSD to ensure that it will not cause adverse drainage impact to the neighbourhoods of the application site.

Reminders

- (e) There is an existing watercourse running across the western part of the site. This existing watercourse lies on Government land and it is essential to the drainage of areas around the application site. It is noted that the applicant proposed to divert the watercourse to a 1600(W) x 1600(H) rectangular channel ("the diverted drain"). The applicant shall not erect any structure including any support, or place any object or obstruction of any kind in the diverted drain or suffer the same to be erected or placed in the drain. The applicant shall ensure that the areas within 3 metres from the extremities of the diverted drain on each side within the subject application site are clear of any structure or obstruction to permit free access along the diverted drain at all times.
- (f) The applicant shall maintain those parts of the diverted drain falling within the application site structurally intact and clear of any refuse, deposits or like obstructions to the unimpeded flow in the diverted drain.

- (g) The applicant shall allow the personnel of DSD or its agents to enter upon or access through the application site for purposes of inspection of the diverted drain within a notice of 14 days issued by DSD in writing. In case any inspection on the diverted drain by DSD is needed, the potted trees directly on top/ in the vicinity of the diverted drain shall be removed and reinstated where necessary by the applicant and at the applicant's cost.
- (h) The cover level of proposed peripheral channels could be flush with the existing adjoining ground level. Channels should be provided with grated covers.
- (i) 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.
- (j) It is noted that there will be proposed fence wall along the boundary of the site. The applicant is reminded that where walls are erected or kerbs are laid along the boundary of the site, peripheral channels should be provided on both sides of the walls or kerbs with details to be agreed by DSD. Alternatively, the applicant may construct adequate openings at the foot of the wall, with size and spacing to be justified by design calculations and details to be agreed by DSD, in order to allow the passage of overland flow from adjacent catchment areas.
- (k) The proposed drainage works should be constructed by the lot owners at their own expense. For works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/TM, LandsD and/or relevant private lot owners.
- (l) Para. 5 - The temporary drainage works should be in accordance with "DSD Technical Circular No. 14/2000 – Temporary Flow Diversions and Temporary Works Affecting Capacity in Stormwater Drainage System".
- (m) With reference to the drawings, the proposed 600mm drainage pipe would be connected to the existing public drain (manhole no. SCH1015463) and hence modification to the existing drain would be necessary. A terminal manhole should be constructed within and close to the site boundary before discharging the stormwater to the nearby public drain. The applicant is also reminded to follow the established procedures and requirements and submit a drainage connection proposal to DSD for comment and approval. The connection work will be subject to our technical audit, for which an audit fee will be charged. Detailed guidelines and application form are available at DSD's website at www.dsd.gov.hk.

Sewerage Impact Assessment (at **Appendix Ik**)

- (n) The Sewerage Impact Assessment (SIA) for the application needs to meet the full satisfaction of Environmental Protection Department (EPD), the planning authority of sewerage infrastructure. DSD's comments on the SIA submitted by the applicant are subject to views and agreement of EPD.