

TOWN PLANNING BOARD

Minutes of 607th Meeting of the Metro Planning Committee held at 9:00 a.m. on 6.7.2018

Present

Director of Planning
Mr Raymond K.W. Lee

Chairman

Mr Lincoln L.H. Huang

Vice-chairman

Mr Sunny L.K. Ho

Dr Lawrence W.C. Poon

Mr. Wilson Y.W. Fung

Ms Sandy H.Y. Wong

Mr Franklin Yu

Ms Lilian S.K. Law

Professor John C.Y. Ng

Assistant Commissioner for Transport (Urban)
Transport Department
Mr Peter P.C. Wong

Chief Engineer (Works), Home Affairs Department
Mr Martin W.C. Kwan

Assistant Director (Environmental Assessment)
Environmental Protection Department
Mr C. F. Wong

Assistant Director (R1), Lands Department
Mr Simon S.W. Wang

Deputy Director of Planning/District
Ms Jacinta K. C. Woo

Secretary

Absent with Apologies

Mr Stephen H.B. Yau

Dr Frankie W.C. Yeung

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Professor T.S. Liu

Mr Stanley T.S. Choi

Mr Daniel K.S. Lau

Professor Jonathan W.C. Wong

In Attendance

Assistant Director of Planning/Board
Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board
Ms April K.Y. Kun

Town Planner/Town Planning Board
Miss Kirstie Y.L. Law

Opening Remarks

[Open Meeting]

1. The Chairman and Members congratulated Ms Lilian S.K. Law for being awarded the Medal of Honour in recognition of her dedicated public and community service, particularly her contributions to serving children, youth and families.

[Mr C.F. Wong left the meeting temporarily.]

Agenda Item 1

Confirmation of the Draft Minutes of the 606th MPC Meeting held on 15.6.2018

[Open Meeting]

2. The Secretary reported that subsequent to the circulation of the draft minutes of the 606th MPC meeting to Members, the following proposed amendments to paragraph 39 were received:

"Mr Tony W.H. Cheung, Principal Environmental Protection Officer (Metro Assessment) of the Environmental Protection Department confirmed that the proposed development was not a designated project under EIAO and a statutory *~~Environmental Impact Assessment~~ EIA study* was not required. *Notwithstanding this*, he *suggested also said* that the applicant *should would* be encouraged to re-use/recycle the material of the demolished building as far as possible."

3. The Committee agreed that the draft minutes of the 606th MPC meeting held on 15.6.2018 were confirmed subject to the above amendment.

Agenda Item 2

Matters Arising

[Open Meeting]

4. The Secretary reported that there were no matters arising.

Hong Kong District

Agenda Item 3

Section 12A Application

[Open Meeting]

Y/H5/5

Application for Amendment to the Draft Wan Chai Outline Zoning Plan No. S/H5/28, To Rezone the Application Site from “Open Space”, “Residential (Group C)”, “Government, Institution or Community” to “Comprehensive Development Area”, 1, 1A, 2 and 3 Hill Side Terrace, 55 Ship Street (Nam Koo Terrace), 1-5 Schooner Street, 53 Ship Street (Miu Kang Terrace) and adjoining Government Land, Wan Chai, Hong Kong

(MPC Paper No. Y/H5/5)

5. The Secretary reported that the application site was located in Wan Chai. The application was submitted by Yuba Company Limited, which was a subsidiary of Hopewell Holdings Limited (Hopewell). AECOM Asia Co. Ltd (AECOM), Hopewell Construction Co. Ltd. and WSP (Asia) Ltd. (WSP) were three of the consultants of the applicant. The following Members had declared interests on this item:

Mr Franklin Yu - having past business dealings with AECOM and WSP;

Mr Thomas O.S. Ho - having past business dealings with AECOM;

Mr Wilson Y.W. Fung - being a Director of the Hong Kong Business Accountants Association which had obtained sponsorship from Hopewell before; and

Mr Stephen H.B. Yau his office locating at Southorn Centre, Wan Chai

6. The Committee noted that Messrs Thomas O.S. Ho and Stephen H.B. Yau had tendered apologies for being unable to attend the meeting, and Messrs Franklin Yu and Wilson Y.W. Fung had not yet arrived to join the meeting.

7. The Committee noted that the applicant requested on 27.6.2018 deferment of the consideration of the application for two months in order to allow time for preparation of further information to address comments from relevant departments. It was the first time that the applicant requested deferment of the application.

8. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within three months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 4

Section 12A Application

[Open Meeting]

Y/H15/12

Application for Amendment to the Draft Aberdeen and Ap Lei Chau (HPA 15 & 16) Outline Zoning Plan No. S/H15/32, To Rezone the Application Site from "Other Specified Uses" annotated "Business (3)" to "Residential (Group E)", 111 Lee Nam Road, Ap Lei Chau
(MPC Paper No. Y/H15/12)

9. The Secretary reported that Ove Arup & Partners Hong Kong Ltd. (Arup) was one of the consultants of the applicant. The following Members had declared interests on this item:

Mr Alex T.H. Lai - his firm having current business dealings with Arup; and

Mr Franklin Yu - having past business dealings with Arup.

10. The Committee noted that the applicant's representative requested deferment of consideration of the application. The Committee noted that Mr Alex T.H. Lai had tendered apologies for being unable to attend the meeting and Mr Franklin Yu had not yet arrived to join the meeting.

11. The Committee noted that the applicant requested on 21.6.2018 deferment of the consideration of the application for two months in order to allow time for preparation of further information to address comments from relevant departments. It was the first time that the applicant requested deferment of the application.

12. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within three months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Ms Esther M.Y. Tang, Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK), was invited to the meeting at this point.]

Tsuen Wan and West Kowloon District

Agenda Item 5

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K5/794 Proposed Shop and Services (Fast Food Counter) in “Other Specified Uses” annotated “Business (1)” Zone, Portion of Workshop No.2, G/F, Yuen Shing Industrial Building, 1033 Yee Kuk West Street, Kowloon
(MPC Paper No. A/K5/794)

13. The Committee noted that a replacement page (page 4 of the Main Paper) providing updated departmental comments in paragraph 9.1.1 (b) of the Paper was dispatched to Members before the meeting.

Presentation and Question Sessions

14. With the aid of a PowerPoint presentation, Ms Esther M.Y. Tang, STP/TWK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed shop and services (fast food counter);
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. Concerned government departments had no objection to or no adverse comments on the application;
- (d) no public comment was received during the statutory publication period;
and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. The proposed shop and services use was considered generally in line with the planning intention for the “Other Specified Uses” annotated “Business”

("OU(B)") zone and was not incompatible with the surrounding developments or the uses in the same building. It complied with the Town Planning Board Guidelines for Development within "OU(B)" zone (TPB PG-No. 22D) in that it would not induce adverse fire safety, traffic, environmental or infrastructural impacts on the developments within the subject building and the adjacent area. Relevant government departments had no objection to or no adverse comment on the application.

15. In response to a Member's enquiry, Mr Simon S.W. Wang, Assistant Director (Regional 1), Lands Department (LandsD), said that upon approval of the planning application by the Town Planning Board, the owner should apply to LandsD for modifying or waving the existing lease conditions. Then LandsD would consider the application acting in the capacity as the landlord. This was in accordance with the established procedures.

[Ms Sandy H.Y. Wong and Mr Wilson Y.W. Fung arrived to join the meeting, and Mr C.F. Wong returned to the meeting at this point.]

16. Some Members raised the following questions:

- (a) whether the calculation of aggregate commercial floor area on ground floor in relation to fire safety concern would apply to this application;
- (b) whether a food factory could be regarded as 'shop and services' use;
- (c) what type of permissions or license was required for the proposed fast food counter; and
- (d) whether prior approval from the Fire Services Department (FSD) would be required should there be changes to the internal common corridor that connected the subject premises with the other portions of the workshop;

17. In response, Ms Esther M.Y. Tang, STP/TWK, made the following responses:

- (a) according to TPB PG-No. 22D, the limit on commercial floor area on the

ground floor did not apply to uses which were ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial or industrial-office building, and the proposed use for fast food counter was one of those uses, hence the calculation of aggregate commercial floor area did not apply to this application;

- (b) 'food factory' was related to business operations involving preparation of food which required a licence from Department of Food and Environmental Hygiene Department (FEHD). Since the application site was relatively small and would operate mainly as a take-away fast food shop, the applied use was regarded as a 'Shop and Services' use in planning terms. For a large-scale food factory, it would not be regarded as 'Shop and Services' use in planning terms;
- (c) apart from obtaining planning permission, the applicant was also required to obtain a food factory licence for the proposed fast food counter in fulfilling the relevant requirements from FEHD; and
- (d) should this application be approved, an approval condition was recommended to be imposed to ensure the fire services installation in the premises would be provided to the satisfaction of FSD. Should the other portions of the workshop be rented out, they would also need to observe the requirements under the different regulatory regimes.

Deliberation Session

18. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.7.2022, 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 provision of fire service installations before operation of the use to the satisfaction of the Director of Fire Services or of the Town Planning Board;

and

- (b) if the above planning condition is not complied with before operation of the use, the approval hereby given shall cease to have effect and should on the same date be revoked without further notice.”

19. The Committee also agreed to advise the applicant to note the advisory clauses as set out at Appendix II of the Paper.

[The Chairman thanked Ms Esther M.Y. Tang, STP/TWK, for her attendance to answer Members’ enquiries. She left the meeting at this point.]

[Mr K.S. Ng, Senior Town Planner/Tsuen Wan & West Kowloon (STP/TWK), was invited to the meeting at this point.]

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TW/492 Proposed Vehicle Repair Workshop in “Residential (Group E)” Zone, G/F (Part) and M/F (Part), Safety Godown, Kwai Chung Town Lot 165, 132–140 (even numbers only), Kwok Shui Road, Kwai Chung, New Territories
(MPC Paper No. A/TW/492D)

20. The Secretary reported that the application site was located in Tsuen Wan. The following Members had declared interests on this item:

Mr Stanley T.S. Choi - his spouse being a director of a company which owned a property in Tsuen Wan; and

Professor John C.Y. Ng - his spouse owning a flat in Tsuen Wan.

21. The Committee noted that Mr Stanley T.S. Choi had tendered apologies for being unable to attend the meeting. The Committee agreed that as the property of Professor John C.Y. Ng's spouse did not have a direct view on the site, he could stay in the meeting.

Presentation and Question Sessions

22. Mr K. S. Ng, STP/TWK, drew the Members' attention that a replacement page (page 6 of the Main Paper) incorporating updated departmental comments in paragraph 8.1.1 (e) of the Paper was tabled at the meeting for Members' information. He then presented the application with the aid of a PowerPoint presentation and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed vehicle repair workshop (VRW);
- (c) departmental comments – departmental comments were set out in paragraph 8 of the Paper. Concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, 679 public comment were received. Among them, 209 public comments from a Tsuen Wan District Council Member, two owners' committees of nearby residential developments, the management office of nearby residential developments and individuals opposed the application. Major objection grounds were set out in paragraph 9 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 10 of the Paper. Since the proposed VRW was for the lifetime of the existing godown building, it would not frustrate the long-term planning intention of the subject "Residential (Group E)" ("R(E)") zone. The proposed VRW was considered not incompatible with the existing warehouse uses in other floors of the subject building as well as its immediate surrounding land uses

which comprised mainly industrial uses. Although the VRW would result in a loss of four loading/unloading (L/UL) bays and three car parking spaces at the G/F of the subject building, the remaining industrial uses would still be served by the 16 bays and 18 car parking spaces on 3/F. Besides, the applicant had proposed an additional L/UL bay on G/F to be provided within the premises for use by other users if necessary, and an additional L/UL bay on 3/F, and submitted an undertaking on the daily car-in and car-out of the proposed VRW and the introduction of pre-booking appointment system for repair services. Both the Buildings Department and Transport Department (TD) had no adverse comment on the application. An approval condition to require the applicant to submit a half-year incoming/outgoing record of repaired vehicle as suggested by TD was recommended. Regarding the public comments, the comments of government departments and planning assessments above were relevant.

23. A Member enquired on the effectiveness of the applicant's proposed management and monitoring measures to address the potential traffic and environmental impact arising from the proposed VRW.

24. Mr K. S. Ng, STP/TWK, responded that the applicant estimated that there would be ten Ferrari cars per day based on the demand for repairing work and those under warranty period. In addition, the applicant had also considered the size and capacity of the proposed VRW. A pre-booking system would be set up to limit the maximum number of appointments to not exceeding ten cars per day. An approval condition was recommended to require the submission of a half-year incoming/outgoing record of the vehicle repaired to demonstrate that the applicant's undertaking was strictly adhered to. Should the approval conditions not be complied with, the planning permission would be revoked.

25. In response to a Member's enquiry on the proposed operation hours, Mr K.S. Ng said that the operation hours were proposed by the applicant mainly to address the local residents' concerns over potential noise impact generated from the engine of Ferrari cars, and accordingly, an approval condition regarding the operation hours was recommended.

Deliberation Session

26. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.7.2022, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- “(a) no operation on Saturdays and Sundays and between 6:00pm to 8:30am from Mondays to Fridays, as proposed by the applicant, is permitted within the premises;
- (b) the submission of a half-year incoming/outgoing record of the vehicles repaired within 9 months upon the operation of the proposed use to demonstrate a maximum of 10 cars in and 10 cars out per day to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission and implementation of fire service installations and water supplies for fire-fighting proposals in the application premises before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (d) if any of the above planning conditions (a), (b) or (c) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.”

27. The Committee also agreed to advise the applicant to note the advisory clauses as set out at Appendix V of the Paper.

[Mr Franklin Yu arrived to join the meeting at this point.]

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TW/500 Proposed Public Utility Installation (Package Substation) in “Village Type Development” Zone, Government Land in D.D. 451, Sheung Kwai Chung, Tsuen Wan, New Territories
(MPC Paper No. A/TW/500)

28. The Secretary reported that the application site was located in Tsuen Wan. The application was submitted by CLP Power Hong Kong Ltd., which was a subsidiary of CLP Holdings Ltd. The following Members had declared interests on this item:

Mr Alex T.H. Lai - his firm having past business dealings with CLP;

Mr Stanley T.S. Choi - his spouse being a director of a company which owned a property in Tsuen Wan; and

Professor John C.Y. Ng - his spouse owning a flat in Tsuen Wan.

29. The Committee noted that Messrs Alex T.H. Lai and Stanley T.S. Choi had tendered apologies for being unable to attend the meeting. The Committee agreed that as the property of Professor John C.Y. Ng’s spouse did not have a direct view on the site, he could stay in the meeting.

Presentation and Question Sessions

30. Mr K. S. Ng, STP/TWK, presented the application with the aid of a PowerPoint presentation and covered the following aspects as detailed in the Paper:

(a) background to the application;

(b) the proposed public utility installation (package substation);

(c) departmental comments – departmental comments were set out in

paragraph 8 of the Paper. Concerned government departments had no objection to or no adverse comment on the application;

- (d) no public comment was received during the statutory publication period; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 10 of the Paper. As the proposed package substation was required for the provision of adequate and reliable electricity supply to the existing and future developments nearby, it was considered as an essential facility for the local area and in line with the planning intention of the “Village Type Development” zone. The proposed single-storey package substation of 3m in height, occupying an area of less than 12m², was small in scale and considered not incompatible with the surrounding rural character. Relevant government departments had no objection to or no adverse comment on the application.

31. Members had no question on the application.

Deliberation Session

32. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 6.7.2022, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following condition:

“ the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.”

33. The Committee also agreed to advise the applicant to note the advisory clauses as set out at Appendix III of the Paper.

[The Chairman thanked Mr K. S. Ng, STP/TWK, for his attendance to answer Members' enquiries. He left the meeting at this point.]

Agenda Item 8

Section 16 Application

[Open Meeting]

A/TWW/115 Public Utility Installation (Open Air Electricity Substation) in "Green Belt" Zone, Lot 445 in D.D. 399, Ting Kau, Tsuen Wan, New Territories
(MPC Paper No. A/TWW/115)

34. The Secretary reported that the application site was located in Tsuen Wan. The application was submitted by CLP Power Hong Kong Ltd. (CLP), which was a subsidiary of CLP Holdings Ltd. Authur Yung and Associates Co. Ltd. (AYA) was one of the consultants of the applicant. The following Members had declared interests on this item:

Mr Alex T.H. Lai - his firm having current business dealings with AYA and past business dealings with CLP;

Mr Stanley T.S. Choi - his spouse being a director of a company which owned a property in Tsuen Wan; and

Professor John C.Y. Ng - his spouse owning a flat in Tsuen Wan.

35. The Committee noted that Messrs Alex T.H. Lai and Stanley T.S. Choi had tendered apologies for being unable to attend the meeting. The Committee noted that the applicant's representative requested deferment of consideration of the application and agreed that as the property of Professor John C.Y. Ng's spouse did not have a direct view on the site, he could stay in the meeting.

36. The Committee noted that the applicant's representative requested on 15.6.2018 deferment of the consideration of the application for one month in order to allow time for preparation of further information to address comments from relevant departments. It was the first time that the applicant requested deferment of the application.

37. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. The Committee also agreed to advise the applicant that one month was allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Mr Stephen C.Y. Chan, Senior Town Planner/Tsuen Wan & West Kowloon (STP/TWK), was invited to the meeting at this point.]

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/KC/453 Shop and Services in "Comprehensive Development Area" Zone, G/F,
64D1 Kau Wa Keng, Kwai Chung, New Territories
(MPC Paper No. A/KC/453)

Presentation and Question Sessions

38. With the aid of a PowerPoint presentation, Mr Stephen C.Y. Chan, STP/TWK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed shop and services (retail shop);
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The Director of Environmental Protection had

no objection to the application, but advised the applicant to avoid noise disturbance/annoyance to the village houses nearby. The Director of Food and Environmental Hygiene (DFEH) had no comment on the application as the application premises did not fall within the area of enforcement action against unlicensed fresh provision shops and the two illegal barbeque spots. Other government departments had no objection to or no adverse comment on the application;

- (d) during the first three weeks of the statutory publication period, 61 public comment were received. Among the 47 objecting comments, two were received from Kwai Tsing District Council members, 11 comments from residents of nearby developments and seven from Mutual Aid Committees/Incorporated Owners/estate management companies of nearby residential developments. Major objection grounds were set out in paragraph 10 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. The premises were located on the ground floor of an existing 2-storey building and the proposed use was generally considered not incompatible with the surrounding area which was mainly village houses. It was located within an existing building and would not jeopardise the long term planning intention of the “Comprehensive Development Area” (“CDA”) zone for comprehensive development/redevelopment of the area for residential and/or commercial uses. Concerned departments consulted had no objection to or adverse comments on the application. Regarding the adverse public comments, the comments of the concerned departments and the planning assessments above were relevant.

39. Some Members raised the following questions:

- (a) which department(s) would be responsible for the enforcement action regarding the illegal operation of outdoor barbeque spots in Kau Wah Keng;

- (b) who the target customers for the subject retail shop were;
- (c) whether there was any evidence showing that the operation of the subject retail shop was related to or would further encourage the illegal operation of the nearby barbeque spots;
- (d) whether it was appropriate to impose an approval condition to restrict the types of goods that could be sold by the subject retail shop;
- (e) whether the District Council had discussed the subject application; and
- (f) whether there were a lot of residents living in the area that might benefit from the subject retail shop and the number of residents currently living in Kau Wah Keng San Tsuen.

40. In response, Mr Stephen C.Y. Chan, STP/TWK, made the following responses:

- (a) it was understood that the Lands Department (LandsD) was currently taking enforcement action against the unauthorized structures in breach of the land lease within the outdoor barbeque spots, while the Food and Environmental Hygiene Department (FEHD) had been taking enforcement action against the operation of unlicensed fresh provision shops at Kau Wah Keng;
- (b) according to the information provided by the applicant, the subject retail shop would only sell non-alcoholic drinks, daily necessities and water but would not sell meat and vegetables. The shop was intended to serve the residents of the nearby village with a limited scale of operation, and it was not associated with the nearby barbeque spots. During the site visits conducted by the District Planning Office (DPO), the subject premises were not in operation and no obvious evidence regarding its relation with the operation of nearby barbeque spots was found;

- (c) it would be difficult to enforce an approval condition to restrict the type of goods that could be sold by the subject retail shop;
- (d) the enforcement action against the operation of the nearby illegal barbeque spots had been regularly discussed and followed-up at meetings of the District Council and its District Management Committee. Relevant departments had been reporting progress of work regarding their follow-up actions against the illegal operation; and
- (e) while information regarding the number of residents living in Kau Wah Keng San Tsuen was not readily in hand, it was noted that there were many house lots and Tso/Tong land within the area. While there should be many residents living in the area, a number of houses in the area were found to be vacant during site visits conducted by DPO.

Deliberation Session

41. The Chairman remarked that while some Members' concerns over the nearby barbeque spots were noted, the subject application was for retail shop and consideration should be given to the compatibility of the proposed use with the surrounding area.

42. Some Members expressed their concern regarding the implications of approving the subject retail shop as its operation might make the barbeque spots more attractive and in turn making enforcement action by other departments more difficult. A Member pointed out that there was a lack of information to judge if the retail shop would serve the nearby community instead of the customers of the barbeque spots.

43. In response to a Member's enquiry, Mr Simon S.W. Wang, Assistant Director (Regional 1) (AD(R1)), LandsD, confirmed that there was no breach of lease conditions regarding the subject retail shop.

44. The Vice-chairman shared his observation that most of the objecting public comments were related to the barbeque spots, and pointed out that the core of the problem was related to the enforcement action of the barbeque spots instead of the subject retail shop. He considered that the subject retail shop could bring some level of convenience to serve the

needs of the nearby community and there was no strong grounds to reject the application. He pointed out that if customers of the barbeque spots were their main clients, the operation of the subject retail shop would likely to cease should effective enforcement actions were carried out on the illegal operation of those barbeque spots. He also considered it was not necessary to recommend approval conditions to restrict the items that could be sold by the subject retail shop.

45. A Member considered it unlikely that the subject retail shop would make the barbeque spots more attractive. While there were no strong grounds to reject the application nor impose a condition, this Member suggested to impose some advisory clauses with a view to minimizing potential disturbances to nearby residents. Another Member pointed out that additional advisory clauses or approval conditions to restrict the selling items might not be appropriate as it might be seen as the Committee also considered that the retail shop was associated with the barbeque spots.

46. Some Members noted that retail shops and supermarkets were available in the neighbourhood hence this additional retail shop might not bring convenience to the nearby residents. A Member considered that additional information regarding the number of residents living in Kau Wah Keng San Tsuen would be useful for them to assess if there was such demand for an additional retail shop in the area.

47. A Member stressed that while the applied use was not incompatible with the surrounding area and relevant departments had no adverse comments on the application, the concerns from the nearby residents should be acknowledged. This Member expressed that while there had been on-going enforcement action taken by relevant departments against the illegal operation of the barbeque spots, the Committee should take into account the concerns of the nearby residents when considering the subject application.

48. Another Member suggested granting a temporary approval so that the Committee could monitor whether the operation of the subject retail shop would add to the disturbance to the residents. Another Member concurred with the suggestion.

49. In response to a Member's enquiry, the Secretariat provided information regarding the population data of the area for Members' consideration. According to the 2011 census, the population in Lai Wah District Council Constituency Boundary (S14) which covered Kau Wah Ken, Kau Wah Keng San Tsuen and six other housing estates was approximately 14,900, and according to the information provided by the relevant District

Office, the population living in permanent structures in Kau Wah Keng where the subject “CDA” zone covered was around 1,300 to 1,500, not including those living in squatters or non-permanent structures.

50. The main points made by Members were summarised as follows:

- (a) the applied retail shop was not incompatible with the surrounding area and there was no strong reasons to reject the application;
- (b) the objecting public comments were mainly related to the nearby barbeque spots, and the consideration of this application should focus on the proposed use of the application site;
- (c) the objecting views of the nearby residents against the operation of barbeque spots, however, should be acknowledged and taken into consideration when the Committee decided whether to grant approval to this application; and
- (d) restricting the items that could be sold by the retail shop was considered too stringent and the enforcement of such approval conditions would be difficult.

51. Most of the Members considered it appropriate to grant approval to the application on a temporary basis based on the following considerations:

- (a) on the basis of the information submitted by the applicant and other available information, there was a lack of evidence showing that the operation of the subject retail shop would have direct linkage with the nearby barbeque spots. Granting a temporary approval could provide an opportunity to monitor the situation, should there be a renewal application in the future; and
- (b) granting a temporary approval would be in line with the long-term planning intention of the subject “CDA” zone and preventing piecemeal development of the area.

52. Regarding the duration for the temporary approval, Members in general considered that three years could be granted to this application. A Member enquired if a shorter period should be granted to demonstrate the Committee's acknowledgement of the strong opposition from the nearby residents. The Vice-chairman considered that a period of three years was appropriate as it aligned with the usual practice of the Committee. The Chairman said that he trusted the relevant government departments would take up pro-active enforcement action against the illegal operation of the nearby barbeque spots, which was the main concern of the local residents.

53. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.7.2021, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions:

- “ (a) the submission and implementation of fire service installations and water supplies for fire-fighting proposals in the application premises before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition (a) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.”

54. The Committee also agreed to advise the applicant to note the advisory clauses as set out at Appendix IV of the Paper.

Hong Kong District

Agenda Item 10

Section 16 Application

[Open Meeting]

A/H5/412 Proposed Commercial Development (including Eating Place, Shop and Services, Office and Commercial Bathhouse/Massage Establishment) in “Residential (Group A)” Zone, 153-167 Queen's Road East, Wan Chai, Hong Kong
(MPC Paper No. A/H5/412)

55. The Secretary reported that the application site was located in Wan Chai. The application was submitted by Eldridge Investments Ltd., which was a subsidiary of Hopewell Holdings Limited (Hopewell). AECOM Asia Co. Ltd (AECOM) was one of the consultants of the applicant. The following Members had declared interests on this item:

Mr Franklin Yu - having past business dealings with AECOM;

Mr Thomas O.S. Ho - having past business dealings with AECOM;

Mr Wilson Y.W. Fung - being a Director of the Hong Kong Business Accountants Association which had obtained sponsorship from Hopewell before; and

Mr Stephen H.B. Yau his office locating at Southorn Centre, Wan Chai.

56. The Committee noted that Messrs Thomas O.S. Ho and Stephen H.B. Yau had tendered apologies for being unable to attend the meeting. The Committee noted that the applicant’s representative requested deferment of consideration of the application. The Committee agreed that as Mr Franklin Yu had no involvement in the application, and the interest of Mr Wilson Y.W. Fung was indirect, they could stay in the meeting.

57. The Committee noted that the applicant requested on 27.6.2018 deferment of the consideration of the application for two months in order to allow time for preparation of further information to address comments from relevant departments. It was the first time that the applicant requested deferment of the application.

58. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its

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

[Ms Sandy S.K. Ng, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

Kowloon District

Agenda Item 11

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K8/48 Religious Institution (Temple) in "Green Belt" Zone, Government Land
to the northwest of Lion Rock Park, Wong Tai Sin, Kowloon
(MPC Paper No. A/K8/48)

Presentation and Question Sessions

59. With the aid of a PowerPoint presentation, Ms Sandy S.K. Ng, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed religious institution (temple);
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. Concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, seven

supporting public comments were received from a Wong Tai Sin District Council member, Lion Rock Hikers, Residents Concern Group and individuals. Major views were set out in paragraph 10 of the Paper; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 11 of the Paper. The planning intention of the “Green Belt” (“GB”) zone was primarily for the conservation of the existing natural environment amid the built-up areas/at the urban fringe, to safeguard it from encroachment by urban type development, and to provide additional outlets for passive recreational activities. While there was a general presumption against development in the “GB” zone, the existing temple was of small scale and served the locals and hikers. Expansion or alteration of the existing structures nor felling of any trees were not involved and the proposed development was not incompatible with the surrounding land uses that mainly comprised natural vegetation, a pavilion and some ruins. Hence, sympathetic consideration might be given. Also, according to Town Planning Board Guidelines No. 10 (TPB PG-No. 10), development within the “GB” zone should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape or cause any adverse visual impact on the surrounding environment, and should not be susceptible to adverse environmental effects or be the source of pollution. In this regard, the Director of Environmental Protection (DEP) and Chief Town Planner/Urban Design & Landscape (CTP/UD&L), PlanD had no adverse comment. Other concerned government departments had no comment or no objection from these aspects.

60. Some Members made the following questions:

- (a) whether the subject temple was registered under the Chinese Temples Ordinance (Cap. 153);
- (b) considerations by Lands Department (LandsD) in granting a Short Term Tenancy (STT);

- (c) whether the leasing of the land under STT could be terminated;
- (d) number of STT not being renewed due to unauthorized building works or expansion as mentioned; and
- (e) the duration of a STT.

61. In response, Ms Sandy S.K. Ng, STP/K, said that the subject temple was not registered under the Chinese Temples Ordinance, but as pointed out by Secretary of Home Affairs (SHA), it was a bona fide religious institution and was a registered charitable organization under section 88 of the Inland Revenue Ordinance (IRO).

62. Mr Simon S.W. Wang, Assistant Director (Regional 1) (AD(R)1), LandsD, made the following responses:

- (a) to regularize uses on government land, two approaches would be adopted, via namely (i) STT; and (ii) land grant. Land grant involved relatively more complicated procedures and required policy support in general, while STT usually involved less complicated procedures, which could be handled in a shorter period of time;
- (b) If there was no permanent development and breach of the STT conditions, the tenancy would normally be renewed quarterly automatically. STT could be terminated should there be expansion works or unauthorized work carried out that were in breach of the tenancy; and
- (c) STT was generally considered to offer more flexibility, and should there be long-term development programme for a site, LandsD could terminate the STT to give way for the future development without going through the time-consuming land resumption processes; and
- (d) in general, the duration of a STT would not be longer than seven years. For sites with temporary uses requiring planning approvals of five years, the duration of STT would normally not be longer than five years.

63. Another Member raised the following questions:

- (a) whether the lessee of land grant could sell the land to others; and
- (b) whether the status of charitable organization would be terminated if the concerned organization (i.e. Pat Sin Temple Limited) operated other activities/ uses.

64. Ms Sandy S.K. Ng, STP/K, replied that from the information provided by the applicant, it was noted that the applicant was recognised as a charitable organization since 29.12.2014 and was exempted from tax under section 88 of IRO. A Member supplemented that registered charitable organizations should not carry out activities or operate in a manner not for charitable nature. The Inland Revenue Department (IRD) would require the charitable organizations to provide documents annually to show that they complied with the requirements set out under section 88 of the IRO as a charitable organization, and would review from time to time that status of being a charitable organization. Yet there were not many cases that the status of a charitable organization was revoked upon review.

65. Mr Simon S.W. Wang, AD(R1), LandsD responded that for STT or land grant for religious purposes like that of the subject application, there would be relevant clauses in the lease/ tenancy forbidding the re-selling of the land or sub-letting. In response to another Member's question, he supplemented that it was not uncommon that some religious institutions were occupying government land without approval. There had also been some applications for regularizing the concerned religious institution uses.

66. The same Member asked about the planning consideration for similar religious institution use in "GB" zone. The Chairman responded that consideration would be based on the planning intention of "GB" zone and relevant TPB Guidelines (TPB PG-No. 10).

67. In response to a Member's enquiry on adverse possession, Mr Simon S.W. Wang, AD(R1), LandsD, responded that the case was not applicable to the claim for land as 'adverse possession' since such claim could only be applicable to occupations over 60 years.

68. A Member enquired whether there would be control to prohibit expansion or alteration of the existing structures should the application be approved. In response, the

Chairman said that the approval of this application was granted to the existing structure, and any alternation or expansion had to comply with relevant regulations and guidelines.

Deliberation Session

69. The Chairman noted that the Committee in general had no objection in approving the application. Regarding the discussion on whether adding restrictions to prohibit expansion or alteration of the existing structure was necessary, he supplemented that an advisory clause could be added stating the granting of planning approval should not be constructed as condoning that the existing structures on the site under the Buildings Ordinance (BO), and for any future alteration works, it had to comply with relevant regulations and guidelines. Similar advisory clause was adopted for other similar applications.

70. A Member enquired whether the advisory clause should also restrict the temple from any alteration and addition (A&A) works. The Chairman responded that this might make it very inflexible as A&A works might be required to keep the temple in good and safe condition in view of its long history. They were considered acceptable as long as the A&A works complied with the parameters approved under this planning application.

71. A Member enquired if it was necessary to request the applicant to register the subject temple under the Chinese Temples Ordinance so that its operation would be monitored by the relevant authorities. The Chairman responded that the Committee could advise the applicant to registering the subject temple under the Chinese Temples Ordinance, rather than to make it as an approval condition, as the registration of a temple was controlled under a separate regime and would require very strong justifications to recommend such approval condition.

72. Another Member pointed out that the monitoring by IRD regarding the status of charitable organization and LandsD's review of the STT were sufficient to ensure the appropriate use of the subject temple for the purpose it applied for.

73. The Vice-chairman expressed his doubt on whether it was necessary to recommend the applicant to register under the Chinese Temples Ordinance. He considered that should it be a mandatory requirement, it was the responsibility of the applicant to comply

with relevant regulations and the Town Planning Board or its committees might not be in a right position to request the applicant to complete the registration.

74. In response to a Member's question, the Chairman said that the applicant of an approved application would be notified in the approval letter that the approval of the application should not be taken to indicate that any other government approval which might be needed in connection with the approval would be given. The Secretary added that a copy of the Paper that contained the comments from the relevant departments would also be sent to the applicant, hence the applicant would know the requirements set out by the concerned departments.

75. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission was subject to the following condition:

“ the provision of fire service installations for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.”

76. The Committee also agreed to advise the applicant to note the advisory clauses as set out at Appendix III of the Paper together with the following additional clause:

“(f) the granting of planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance.”

[The Chairman thanked Ms Sandy S.K. Ng, STP/K, for her attendance to answer Members' enquiries. She left the meeting at this point.]

Agenda Item 12

Any Other Business

77. There being no other business, the meeting closed at 11:25a.m..