

**TOWN PLANNING BOARD**

**Minutes of 440th Meeting of the  
Rural and New Town Planning Committee held at 2:30 p.m. on 6.5.2011**

**Present**

Director of Planning  
Mr. Jimmy C.F. Leung

Chairman

Mr. B.W. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Dr. James C. W. Lau

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Dr. C.P. Lau

Dr. W.K. Lo

Ms. Anita W.T. Ma

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Chief Traffic Engineer/New Territories East,  
Transport Department  
Mr. Ambrose S.Y. Cheong

Assistant Director (2), Home Affairs Department  
Mr. Andrew Y.T. Tsang

Principle Environmental Protection Officer (Strategic Assessment)  
Environmental Protection Department  
Mr. H.M. Wong

Assistant Director/New Territories, Lands Department  
Mr. Simon K.M. Yu

Deputy Director of Planning/District  
Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Mr. Walter K.L. Chan

Vice-chairman

**In Attendance**

Assistant Director of Planning/Board  
Mr. C.T. Ling

Chief Town Planner/Town Planning Board  
Miss H.Y. Chu

Town Planner/Town Planning Board  
Ms. Kathy C.L. Chan

**Agenda Item 1**

Confirmation of the Draft Minutes of the 439th RNTPC Meeting held on 15.4.2011

[Open Meeting]

1. The draft minutes of the 439th RNTPC meeting held on 15.4.2011 were confirmed without amendments.

**Agenda Item 2**

Matters Arising

[Open Meeting]

Approval of Draft Outline Zoning Plans

2. The Secretary reported that on 12.4.2011, the Chief Executive in Council approved the following four draft Outline Zoning Plans (OZPs) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance) :

- (a) Sai Ying Pun and Sheung Wan OZP (to be renumbered as S/H3/25);
- (b) Tsim Sha Tsui OZP (to be renumbered as S/K1/26);
- (c) Shek Kip Mei OZP (to be renumbered as S/K4/25); and
- (d) So Kwun Wat OZP (to be renumbered as S/TM-SKW/11).

3. The Secretary said that the approval of Sai Ying Pun and Sheung Wan OZP was notified in the Gazette on 15.4.2011 whereas the approval of the other three OZPs was notified on 6.5.2011.

**Sai Kung and Islands District**

[Mrs. Margaret W.F. Lam and Mr. C.F. Yum, Senior Town Planners/Sai Kung and Islands (STPs/SKIs), were invited to the meeting at this point.]

**Agenda Item 3**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/I-MWF/18            Proposed Public Utility Installation (Electricity Package Substation)  
in “Village Type Development” zone,  
Government Land in D.D. 3 Mui Wo, Luk Tei Tong Village,  
Mui Wo, Lantau Island  
(RNTPC Paper No. A/I-MWF/18)

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**Presentation and Question Sessions**

4.            Mrs. Margaret W.F. Lam, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed public utility installation (electricity package substation);
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, one public comment was received from a group of 22 local residents raising objection to the application on the grounds that the proposed development would have potential adverse impact on health owing to the electromagnetic fields (EMF)/radiation generated by the electricity package substation. The substation should be located further away from the residential area; and

[Ms. Anna S.Y. Kwong, Professor Edwin H.W. Chan and Mr. Simon K.M. Yu arrived at the meeting at this point.]

- (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 which were summarised below:
  - (i) the proposed substation was an essential public utility facility to enhance electricity supply to the existing village and to provide electricity to the future developments in Luk Tei Tong Village. According to the applicant, there was an urgent need for the proposed substation to support the village development based on the recent electricity loading record;
  - (ii) the proposed substation was small in scale with an area of 11.95m<sup>2</sup> and a building height of about 3m. It was considered not incompatible with the surrounding environment of the “Village Type Development” zone and would unlikely cause significant adverse impacts on the surrounding areas. To soften the visual impact of the proposed development, an approval condition requiring the submission and implementation of landscape proposal to provide effective screen planting for the application site and its surrounding areas was recommended;
  - (iii) the location of the application site was considered suitable for the proposed substation as there was a vehicular access and sufficient space for operation areas, and it could fulfill the voltage drop and other design requirements. The site was located near the periphery of the village and away from the village proper of Luk Tei Tong Village. The location was supported by the village representatives; and
  - (iv) regarding the public comment on health concern and the location, the applicant had clarified that CLP Power networks of substations and circuits were operated in full compliance with the International Radiation Protection Association and the International Commission

Guidelines on Non-Ionising Radiation Protection (ICNIRP). The Director of Health advised that according to the World Health Organization, compliance with the ICNIRP guidelines should not pose any significant adverse effects to workers and the public from exposure to extremely low frequency EMF, such as those generated by electrical facilities. The Director of Electrical and Mechanical Services also advised that regular EMF measurements would be conducted during routine inspections and incident investigations for electricity package substations. According to their routine inspections, all EMF measured were well below the exposure limits promulgated in the ICNIRP guidelines regarding public exposure limits for power frequency EMF. Nevertheless, the applicant would be advised to comply with the relevant ICNIRP guidelines. Besides, the location of the proposed substation was supported by the village representatives and no objection/adverse comment was raised by government departments. An approval condition requiring the provision of screen planting for the development to alleviate the adverse impact was recommended.

5. Members had no question on the application.

#### Deliberation Session

6. 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 6.5.2015, 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 submission and implementation of landscape proposal to provide effective screen planting at the application site and its surrounding areas with consent of the concerned authority to the satisfaction of the Director of Planning or of the TPB; and

- (b) the submission and implementation of proposals for water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the District Lands Officer/Islands that an application for Short Term Tenancy should be submitted for the proposed use. The existing tree to the immediate south of the application site should not be affected as far as possible. If it was unavoidable and the tree was required to be transplanted, a tree felling approval should be sought from her office with justifications;
- (b) to note the comments of the Commissioner for Transport that the site was only accessible by the emergency vehicular access. If construction vehicles were required for the installation, appropriate departments and the locals should be consulted for detailed arrangement of the vehicular access;
- (c) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that slight adjustment of the location of the proposed substation could avoid the need for transplanting the existing tree. To make the proposed stainless steel substation more compatible with the rural village development character of the area, the applicant should review the material and design of the proposed substation. A simple structure in sub-due colour might help the proposed substation to blend in well with the rural setting;
- (d) to note the comments of the Director of Health that according to the World Health Organization (WHO), compliance with the relevant International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines should not pose any significant adverse effects to workers and the public from exposure to extremely low frequency electromagnetic fields, such as those generated by electrical facilities. WHO also encouraged effective and open communication with stakeholders in the planning of new

electrical facilities and exploration of low-cost ways of reducing exposures when constructing new facilities;

- (e) upon commissioning of the electricity package substation, the applicant should verify the actual compliance with the ICNIRP guidelines with direct on-site measurements and submit the report for consideration by the Director of Electrical and Mechanical Services;
- (f) to note the comments of the Director of Fire Services that detailed fire safety requirements including fire detection system and portable fire extinguishers would be formulated upon receipt of formal submission of general building plans. The applicant should observe the arrangement on emergency vehicular access as stipulated in Part VI of the Code of Practice for Means of Access for Firefighting and Rescue which was administered by the Buildings Department; and
- (g) to note the comments of the Director of Electrical and Mechanical Services that the 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of electricity supply lines.

[The Chairman thanked Mrs. Margaret W.F. Lam, STP/SKIs, for her attendance to answer Members' enquiries. Mrs. Lam left the meeting at this point.]

[Mr. Stephen M.W. Yip arrived at the meeting at this point.]

**Agenda Item 4**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/186            Proposed Animal Boarding Establishment (Kennel)  
in “Green Belt” and “Recreation” zones,  
Lots 116, 117, 118, 119 RP, 120 S.A, 120 RP in D.D. 247 and  
Adjoining Government Land, Ho Chung, Sai Kung  
(RNTPC Paper No. A/SK-HC/186)

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**Presentation and Question Sessions**

8.            Mr. C.F. Yum, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a)    background to the application;
- (b)    the proposed animal boarding establishment (kennel);
- (c)    departmental comments were detailed in paragraph 9 of the Paper and highlighted below:
  - (i)    the Commissioner for Transport (C for T) did not support the application as the applicant failed to demonstrate that the proposed development would have no adverse traffic impact. Since loading/unloading spaces for light goods vehicles, private cars and shuttle mini bus for transporting staff and dogs to and from the site would be provided within the site, it was not agreeable that no increase in traffic would be envisaged as mentioned in the traffic impact assessment (TIA) report. Moreover, he advised that the section of Ho Chung Road leading to the site was a two-way single track which was not suitable for use by medium/heavy goods vehicles;
  - (ii)   the Director of Environmental Protection (DEP) did not support the application. While the submission indicated that there would be

odour and water quality concerns from the proposed development, the applicant had not demonstrated that there was no adverse environmental impact. DEP also raised concern on the noise nuisance to the nearby residents, particularly due to dog barking during the sensitive hours when the background noise was low. On the applicant's proposal of installing a sewage treatment plant and reusing the treated wastewater, as the site was inside the Water Supplies Department (WSD)'s water gathering grounds (WGG), discharges from the proposed sewage treatment plant had to comply with stringent discharge standards as specified in the Technical Memorandum on Effluent Standard drawn up under the Water Pollution Control (Amendment) Ordinance. Moreover, according to the Environmental Impact Assessment Ordinance, "*an activity for the reuse of treated sewage effluent from a treatment plant*" was a designated project and an environmental permit was required prior to its construction and operation; and

- (iii) the Chief Engineer/Development (2) (CE/Dev(2)), WSD objected to the application as the site encroached upon WSD upper indirect WGG, the proposed development would likely increase the pollution risks to the water quality within the WGG. There was no document or monitoring results from the applicant to prove the capability, performance and operability of the proposed system for treating sewage to the statutory standards;
- (d) a total of five public comments were received during the statutory publication periods of the application and the further information on the application. The comment from Designing Hong Kong Limited objected to the application on the grounds that over 50% of the site was zoned "Green Belt" and approval of the case would set a bad precedent. The other four comments submitted by the Hong Kong Bird Watching Society, village representatives and residents nearby also objected to the application on the grounds of environmental pollution, adverse impacts on public health, ecology and noise aspects, and adverse traffic impact on Ho Chung

Road; and

[Ms. Anita W.T. Ma arrived at the meeting at this point.]

- (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 below:
  - (i) the proposed development was not in line with the planning intention of the “GB” and “Recreation” (“REC”) zones. There were no strong justifications provided in the submission to warrant a departure from the planning intentions;
  - (ii) according to the Town Planning Board Guidelines No. 10, development within “GB” zone would only be considered in exceptional circumstances and should be justified with very strong planning grounds, and the proposed development should not itself be the source of pollution. DEP did not support the application as there was no information in the submission to address the potential odour and water quality impacts as well as the noise nuisances arising from the operation of the proposed development to the nearby residents, particularly due to dog barking during the sensitive hours when the background noise was low;
  - (iii) the site fell within the upper indirect WGG. The applicant had not demonstrated that the proposed development would not adversely affect the water quality within the WGG. CE/Dev(2), WSD objected to the application as the proposed development would likely increase the pollution risks to the water quality within the WGG;
  - (iv) C for T did not support the application as the applicant had not demonstrated that there was no adverse traffic impact of the proposed development in the TIA Report; and
  - (v) the approval of the application would set an undesirable precedent for other similar applications within the “GB” and “REC” zones. The

cumulative effect of approving such similar applications would result in a general degradation of the environment.

9. Members had no question on the application.

#### Deliberation Session

10. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was considered not in line with the planning intention of the “Green Belt” (“GB”) and “Recreation” (“REC”) zones. The planning intention of the “GB” zone was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. The planning intention of the “REC” zone was intended for recreational developments for the use of the general public. There were no strong justifications provided in the submission to warrant a departure from these planning intentions;
- (b) the proposed development did not meet the Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” Zone’ in that the proposed development itself was the source of pollution. The submission failed to demonstrate that the proposed development would not have noise nuisance and odour and water quality impacts on the surrounding areas;
- (c) the proposed development was located within the water gathering grounds. The applicant had not demonstrated that the proposed development would not adversely affect the water quality within the water gathering grounds;
- (d) the applicant failed to demonstrate that the proposed development would

not generate adverse traffic impact on the surrounding areas; and

- (e) the approval of the application would set an undesirable precedent for other similar applications within the “GB” and “REC” zones. The cumulative effect of approving such similar applications would result in a general degradation of the environment.

### **Agenda Item 5**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/190            Proposed Two Houses  
                                 (New Territories Exempted Houses – Small Houses)  
                                 in “Agriculture” zone,  
                                 Lot 409 in D.D. 244, Ho Chung, Sai Kung  
                                 (RNTPC Paper No. A/SK-HC/190)

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#### **Presentation and Question Sessions**

11.            Mr. C.F. Yum, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed two houses (New Territories Exempted Houses (NTEHs) – Small Houses);
- (c) the departmental comments were detailed in Appendix IV of the Paper and highlighted below:
  - (i) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application. The closest distance between the proposed houses and the natural stream was less than 2m. However, there was insufficient information in the application to demonstrate

that the potential impact on the stream and its riparian zone could be mitigated. Besides, the site was overgrown with grass and located near an active farmland. Given the availability of a clean stream and a vehicular access next to the site, the potential of rehabilitating the site for open cultivation, plant nursery or greenhouse was relatively high;

- (ii) the Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD) and the Director of Environmental Protection (DEP) objected to the application as the site was located within the lower indirect water gathering grounds (WGG) where no sewer was available. The CE/Dev(2), WSD also advised that the proposed installation of 'cesspool' by the applicant was not acceptable from operational point of view; and
  - (iii) the Commissioner for Transport (C for T) had reservation on the application and indicated that the development of NTEHs should be confined within the "Village Type Development" ("V") zone as far as possible. Although additional traffic generated by the proposed development was not expected to be significant, such type of development outside the "V" zone, if permitted, would set an undesirable precedent for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. However, the application only involved the construction of two Small Houses, he considered that this application could be tolerated unless it was rejected on other grounds;
- (d) during the statutory publication period, a total of 44 public comments were received. Among them, 40 submissions from the Friends of Sai Kung, WWF Hong Kong, Kadoorie Farm and Botanic Garden, Designing Hong Kong Limited, local villagers and members of the general public raised objection to the application. The remaining four comments submitted by a Sai Kung District Council member, local villagers and a member of the general public expressed concerns on the application. The grounds of objection were mainly on water, waste, air and noise pollution; risk of

flooding; village access road disputes; illegal dumping of construction waste; ecological impacts on the lower Ho Chung river, bird and dragonfly habitat, Site of Special Scientific Interest and the nearby Country Park; planning intention of “Agriculture” zone; lack of sustainable village layout on infrastructure, public facilities, amenities and public space; adverse impact on the living environment and the well being of residents; health and social problems; maintaining agricultural use; and undesirable precedent for similar applications; 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 below:
  - (i) the application did not meet the ‘Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories’ as the proposed development fell within the lower indirect WGG where no public sewer was available. CE/Dev(2), WSD and DEP objected to the application as the proposed development could not be connected to the existing or planned sewerage system in the area. No information was provided by the applicants to demonstrate that the water quality within the WGG would not be affected;
  - (ii) the site was located about 1m away from a natural stream while the nearest distance of the proposed NTEHs to the stream was less than 2m. DAFC did not support the application as there was insufficient information in the application to demonstrate that the potential adverse impacts to the stream and its riparian zone could be addressed; and
  - (iii) C for T had reservation on the application as approval of NTEH development outside the “V” zone would set an undesirable precedent for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.

12. Members had no question on the application.

### Deliberation Session

13. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reason was :

- the application did not comply with the ‘Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories’ in that the proposed development was located within the water gathering grounds and the applicants had not demonstrated that the proposed development would not adversely affect the water quality within the water gathering grounds.

### Agenda Item 6

#### Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/191 Temporary Private Garden Ancillary to House for a Period of 3 Years  
in “Green Belt” zone,  
Government Land Adjoining Lot 761 in D.D. 249,  
Kai Ham, Sai Kung  
(RNTPC Paper No. A/SK-HC/191)

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#### Presentation and Question Sessions

14. Mr. C.F. Yum, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary private garden ancillary to a house for a period of three years;

- (c) the departmental comments were detailed in paragraph 9 of the Paper and highlighted below:
- (i) the Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD) objected to the application as the site encroached upon WSD's upper indirect water gathering grounds (WGG) and the private garden would likely increase the pollution risks to the water quality within the WGG;
  - (ii) the Director of Environmental Protection (DEP) objected to the application as the site was located within WGG where no public sewer was available;
  - (iii) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape planning perspective. The private garden had been built with minimal permanent planting at-grade but potted plants placed on paved ground and timber deck. Approval of the application would set an undesirable precedent and attract similar applications within the "Green Belt" ("GB") zone. The cumulative effect of approving similar applications would result in a general degradation of the environment; and
  - (iv) the Director of Agriculture, Fisheries and Conservation advised that according to the site inspection, it appeared that the private garden had been erected for some time. Small tree groups comprised both native and exotic species were found at the boundary of the existing garden. It was not sure if any unauthorized development was related to the application. Based on the existing site condition and the applicant's submission that no tree felling would be involved, he had no strong view on the application should it be considered justified. Otherwise, approval of the application would set an undesirable precedent to encourage future malpractice;
- (d) during the statutory publication period, three public comments were

received from the Designing Hong Kong Limited, the village representative of Kai Ham Village and local villagers raising objection to the application mainly on the grounds of planning intention of “GB” zone, lack of a sustainable layout, bad precedent, maintenance problem of water supply pipeline and irrigation canal, and access problem to the other lots; and

- (e) PlanD’s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper which were summarised below:
- (i) The existing private garden which had been paved and fenced off involved an illegal occupation of government land which fell within the “GB” zone. The applied use was considered not in line with the planning intention of the “GB” zone. There was no strong justification provided in the submission to warrant a departure from the planning intention, even on a temporary basis;
  - (ii) according to the Town Planning Board Guidelines No. 10, development within “GB” zone would only be considered in exceptional circumstances and should be justified with very strong planning grounds. The site was a piece of government land and was previously covered with dense vegetation. It only became a formed area arising from the site formation works related to Small House development. Hence, there was no strong planning justification to utilize this piece of government land for private garden purpose;
  - (iii) the site was within the upper indirect WGG. The applicant had failed to demonstrate that the private garden would have no adverse impact on the WGG. CE/Dev(2), WSD objected to the application as the private garden would likely increase the pollution risks to the water quality within the WGG. DEP also objected to the application as the site was located within WGG where no public sewer was available; and
  - (iv) the approval of the application would set an undesirable precedent for other similar applications within the “GB” zone. The cumulative

effect of approving such similar applications would result in a general degradation of the natural environment.

15. Members had no question on the application.

#### Deliberation Session

16. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the development was not in line with the planning intention of the “Green Belt” (“GB”) zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong justification in the submission for a departure from the planning intention even on a temporary basis;
- (b) the private garden was located within the water gathering grounds. There was concern that the private garden would increase the pollution risks to the water quality within the water gathering grounds; and
- (c) the approval of the application would set an undesirable precedent for other similar applications within the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the natural environment.

[The Chairman thanked Mr. C.F. Yum, STP/SKIs, for his attendance to answer Members’ enquires. Mr. Yum left the meeting at this point.]

**Sha Tin, Tai Po and North District**

[Ms. Lisa L.S. Cheng, Ms. Doris S.Y. Ting and Mr. Dennis C.C. Tsang, Senior Town Planners/Sha Tin, Tai Po and North (STPs/STN), were invited to the meeting at this point.]

**Agenda Items 7 and 8**

**Section 16 Applications**

[Open Meeting]

A/DPA/NE-HH/5 Proposed House (New Territories Exempted House – Small House) in “Unspecified Use” zone,  
Government Land in D.D. 283, Hoi Ha Village, Sai Kung North  
(RNTPC Paper No. A/DPA/NE-HH/5 and 6)

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A/DPA/NE-HH/6 Proposed House (New Territories Exempted House – Small House) in “Unspecified Use” zone,  
Government Land in D.D. 283, Hoi Ha Village, Sai Kung North  
(RNTPC Paper No. A/DPA/NE-HH/5 and 6)

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17. The Secretary reported that on 30.9.2010, the draft Hoi Ha Development Permission Area (DPA) Plan No. DPA/NE-HH/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance for two months. The two application sites fell within an area zoned “Unspecified Use” (“U”) on the draft Hoi Ha DPA Plan. During the plan exhibition period, a total of 18 representations were received. Among them, one representation objected to the designation of “U” zone to cover the entire Hoi Ha DPA Plan and proposed to rezone an area, including the subject application sites, from “U” to “Village Type Development” (“V”). There was another representation objecting to the “U” zone designation and suggesting the whole area be designated as Country Park. After giving consideration to the representations on 8.4.2011, the Town Planning Board (the Board) decided not to uphold the representations including the two subject representations. The draft DPA Plan with the application sites zoned as “U” together with all the representations not upheld by the Board would be submitted to the Chief Executive in Council (CE in C) for final decision. If decision was made to uphold the representation to designate the whole area as Country Park under the Country Parks Ordinance (Cap. 208), all uses and developments, including Small House development, required consent from the Country and

Marine Parks Authority.

18. The Secretary said that the Director of Agriculture, Fisheries and Conservation (DAFC) had recently advised that “any Small House applications should be considered by the Board at this juncture before CE in C’s decision in deciding whether the area should be designated as part of the Country Park.” DAFC also advised that he would provide comments on the Small House applications from the country park point of view, if needed. As DAFC’s comments on the subject Small House applications from the country park point of view would be necessary, the Planning Department recommended to defer the consideration of the two applications pending the comments of DAFC on the proposed Small House development.

19. After deliberation, the Committee decided to defer a decision on the two applications pending the comments of DAFC on the proposed Small House development.

### **Agenda Item 9**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KLH/428 Proposed House (New Territories Exempted House – Small House)  
in “Village Type Development” and “Agriculture” zones,  
Lot 11 S.N in D.D. 7, Tai Hang Village,  
Kau Lung Hang, Tai Po  
(RNTPC Paper No. A/NE-KLH/428)

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#### **Presentation and Question Sessions**

20. Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small

House);

- (c) departmental comments – the District Lands Officer/Tai Po (DLO/TP) and the Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD) did not support the application as the site fell entirely outside the village ‘environs’ (‘VE’) of Tai Hang Village. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from the agricultural point of view as the potential of rehabilitating the site for agricultural activities was high. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application from the landscape planning point of view. While the application site was currently vacant with no vegetation, the aerial photo taken in December 2009 revealed that vegetation within the subject “Agriculture” (“AGR”) zone had been significantly cleared and such disturbances had already disrupted the landscape resources of high value. Therefore, it was likely that the approval of the application would set an undesirable precedent to similar Small House applications in the subject “AGR” zone, resulting in further degradation of the landscape quality;
- (d) during the statutory publication period, one public comment was received from one of the owners of the adjoining Lots 10 and 48 in D.D. 7. The owner raised concerns on the possible adverse impacts of the proposed development on his land in view of the adverse impacts generated by the adjoining developments which was undertaken by the same developer;
- (e) the District Officer (Tai Po) advised that the villagers might have views on the application if the footpath to the immediate west of the proposed house was fenced off. The footpath that might be blocked by the proposed development was not constructed or maintained by his office; and
- (f) the PlanD’s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper which were summarised below:

- (i) the application site was located at the northern fringe of Tai Hang Village and about 96% of the site fell within the “AGR” zone. DAFC did not support the application from the agricultural point of view as the potential of rehabilitating the site for agricultural activities was high;
- (ii) the proposed Small House development did not comply with the ‘Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories’ (Interim Criteria) in that more than 50% of the footprint of the proposed Small House fell outside the “Village Type Development” (“V”) zone of Tai Hang Village and the ‘VE’ of any recognized villages in Tai Po, and that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of the village concerned. DLO/TP and CE/Dev(2) of WSD did not support the application as the site fell entirely outside the ‘VE’ of Tai Hang Village;
- (iii) while the application site was located within the upper indirect water gathering ground, public sewerage was proposed next to the application site. As such, the Director of Environmental Protection had no objection to the application provided that the proposed house would be connected to the future public sewers prior to the occupation; and
- (iv) CTP/UD&L had reservation on the application from the landscape planning point of view as vegetation within the subject “AGR” zone had been significantly cleared and the approval of the application would likely set an undesirable precedent to similar Small House applications in the subject “AGR” zone, resulting in urban sprawl and further degradation of the landscape quality in the area.

21. Members had no question on the application.

Deliberation Session

22. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Agriculture” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention; and
- (b) the proposed development did not comply with the ‘Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories’ in that more than 50% of the footprint of the proposed Small House fell outside both the “Village Type Development” (“V”) zone and the village ‘environs’ of Tai Hang Village; and there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Tai Hang Village.

### **Agenda Item 10**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LT/416 Proposed Two Houses (New Territories Exempted Houses)  
in “Agriculture” and “Village Type Development” zones  
and an area shown as ‘Road’,  
Lots 228, 230 and 231 in D.D.16 and Adjoining Government Land,  
Lam Kam Road, Lam Tsuen, Tai Po  
(RNTPC Paper No. A/NE-LT/416A)

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Presentation and Question Sessions

23. Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application –The applicant, who was not an indigenous villager, claimed that about 0.03 acre (about 121.4m<sup>2</sup>) of Lot 228, which mainly fell within an area shown as ‘Road’, had building status but his previous redevelopment proposals at Lot 228 were rejected by the Buildings Department due to non-compliance with the zoning;
- (b) the proposed two houses (New Territories Exempted Houses (NTEHs)) – the applicant proposed to surrender a portion of Lots 228 and 231, which was zoned “Village Type Development” (“V”) and shown as ‘Road’, in return for a regrant of the same amount of government land of about 238m<sup>2</sup> in the “Agriculture” (“AGR”) zone. He proposed to build two 3-storey NTEHs with dimensions equivalent to Small Houses with a total gross floor area (GFA) of about 364m<sup>2</sup>;
- (c) the departmental comments were detailed in paragraph 8 of the Paper and highlighted below:
  - (i) the District Lands Officer/Tai Po (DLO/TP) noted that the application was for the development of two NTEHs by non-indigenous villager. According to the New Territories Small House Policy, application for NTEH/ Small House development by non-indigenous villager would not be considered by the DLO. Moreover, land exchange for NTEH (non-Small House case) development within the ‘VE’ was not normally entertained by the DLO;
  - (ii) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from the agricultural point of view as the application site fell partly within the “AGR” zone and the potential of rehabilitation for agricultural activities was high;
  - (iii) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application

from the landscape planning perspective. The application site was located on the outskirts of one of the villages settled within the Lam Tsuen Valley. The landscape was predominately rural and was fairly diverse and tranquil. The site was a piece of fallow agricultural land overgrown with grass and trees. The vegetation on the site served as part of the green buffer separating the agricultural area and village houses area. The approval of the application would set an undesirable precedent to similar Small House applications in the area and the cumulative impact of individual Small House developments would inevitably detract from the pleasant rural landscape setting and the existing landscape quality of the area; and

- (iv) the Commissioner for Transport (C for T) had reservation on the application as the proposed development should be confined within the “V” zone as far as possible. The proposed NTEHs should not be located within an area shown as ‘Road’ although there was currently no plan to widen this section of Lam Kam Road. Notwithstanding the above, taking into account that the applicant proposed to surrender a portion of Lot 228 falling within the area shown as ‘Road’ and a portion of Lot 231 as non-building area, he considered that the subject application could be tolerated unless it was rejected on other grounds. In addition, the proposed four car parking spaces were not supported which should be considered in accordance with the Hong Kong Planning Standards and Guidelines (HKPSG);
  
- (d) during the statutory publication period, a public comment was received from Designing Hong Kong Limited raising objection to the application on the grounds that the proposed development was incompatible with the zoning intention and character of the area; a sustainable layout with quality design was not available for the area; and approval of further development without a sustainable layout would have adverse impacts on the living environment and the well being of residents and create health and social problems;

- (e) the District Officer (Tai Po) advised that there was an access at Lot 231 which was not constructed and maintained by his office. If the applicant planned to fence off the access, he should discuss with the affected villagers and provide an alternative access; and
- (f) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 10 of the Paper which were summarised below:
  - (i) the applicant, who was not an indigenous villager, claimed that about 0.03 acre (about 121.4m<sup>2</sup>) of Lot 228, which mainly shown as 'Road', had building status but his previous redevelopment proposals at Lot 228 were rejected by the Buildings Department due to non-compliance with the zoning. C for T commented that the proposed NTEHs should not be located within an area shown as 'Road' although there was currently no widening proposal for Lam Kam Road;
  - (ii) while the subject site was located within the 'VE' of Kau Liu Ha and Hang Ha Po, DLO/TP pointed out that land exchange for NTEH (non-Small House case) development within the 'VE' was not normally entertained by his office. Although DLO/TP noted that there were some records reflecting that portion of Lot 228 might had house status, the area of building entitlement of the lot and the development restrictions were subject to further investigation. While the subject land matters were outside the purview of the Town Planning Board, it was unclear whether the applicant was entitled to develop NTEHs on the application site and whether the entitlement could be translated into two 3-storey NTEHs with a GFA of about 364m<sup>2</sup> and four parking spaces as proposed by the applicant. It should be noted that the HKPSG parking standard quoted by the applicant was for normal residential developments and not applicable to NTEHs;
  - (iii) the proposed development was not in line with the planning intention

of the “AGR” zone as about 73% of the application site and the entire footprint of the two proposed houses (NTEHs) fell within the said zone. The DAFC did not support the application from the agricultural point of view as the potential of rehabilitating the site for agricultural activities was high;

- (iv) the CTP/UD&L had reservation on the application from the landscape planning perspective as approval of the application would set an undesirable precedent to similar Small House applications in the area, which would inevitably detract from the pleasant rural landscape setting and the existing landscape quality of the area. Even if the applicant could justify clearly the building entitlement for two NTEHs to the satisfaction of the concerned authority, the applicant had failed to demonstrate why the two houses could not be accommodated on the portions of his lots (i.e. Lots 228, 230 and 231) lying outside the area shown as ‘Road’ without taking up government land, which was covered by natural vegetation and located closer to the stream and farther from existing developments in the surrounding areas; and
- (v) regarding the existing NTEH which was located within the subject “AGR” zone on Lot 232 to the immediate south of the site as mentioned by the applicant, it was covered by a building licence issued by the DLO/TP in 1982. As this NTEH was in existence before the Lam Tsuen Outline Zoning Plan came into effect on 31.8.1990, it was regarded as an “existing use” that was permitted to continue on the site until there was a change of use or the building was redeveloped. As such, the NTEH on Lot 232 could not be taken as similar or precedent case for the consideration of the subject application.

24. Members had no question on the application.

Deliberation Session

25. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 11.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Agriculture” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention;
- (b) the applicant failed to demonstrate in the submission that the proposed development could not be accommodated within his own private lots to avoid taking up government land covered by natural vegetation which served as part of the green buffer separating the agricultural area and village houses area; and
- (c) the approval of the application would set an undesirable precedent for similar applications for house developments in the area, which would adversely affect the existing pleasant rural landscape quality of the area.

### **Agenda Item 11**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LT/417      Proposed Public Utility Installation (Sewage Pumping Station)  
in “Agriculture” zone,  
Lot 161 S.A RP (Part) in D.D. 19 and Lot 1283 S.B (Part) in D.D. 8,  
Tong Min Tsuen, Lam Tsuen, Tai Po  
(RNTPC Paper No. A/NE-LT/417)

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**Presentation and Question Sessions**

26. Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed public utility installation (sewage pumping station), which was submitted by the Drainage Services Department, comprised a single storey building with a gross floor area of about 53.7m<sup>2</sup> and a height of about 4.55m on a raised platform of about 2.3m on its three sides. The proposed development would require excavation of land at a maximum level of 4.3m for accommodating underground pumping facilities;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Tai Po); 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 which were summarised below:
  - (i) according to the applicant, the proposed sewage pumping station, being part of the Lam Tsuen Valley Sewerage Project, was essential for collecting and conveying the sewage generated from the villages in low-lying area to the proposed Lam Kam Road trunk sewer and further to the Tai Po Sewage Treatment Works for proper treatment and disposal. Upon completion of the sewerage scheme, the water pollution problem in the unsewered areas in Lam Tsuen Valley area could be alleviated and the living environment of the area could be improved. After considering two other alternative sites within the same “AGR” zone, the subject site was found to be more preferable

as it could fulfil the technical requirements and was accepted by the villagers and landowners concerned;

- (ii) the pumping facilities would be enclosed within an underground concrete structure and deodorisation equipment would be installed for controlling odour from the proposed sewage pumping station. According to the applicant, with the implementation of mitigation measures, the proposed sewage pumping station would unlikely cause adverse noise, odour and other environmental impacts on the nearby sensitive receivers during both the construction and operation stages. While the site was located within the water gathering ground (WGG), the applicant had mitigation and contingency plans, such as the provision of emergency retention storage tank to minimise the chance of sewage overflow to the surrounding areas. In this connection, the Environmental Protection Department had no objection to the application whereas the Water Supplies Department had no objection to the application subject to the incorporation of approval conditions as detailed in Appendix II of the Paper;
- (iii) the proposed pumping station with a height of 4.55m was considered not incompatible with the surrounding low-rise village houses and the existing landscape character. As significant adverse impact from the proposed development on landscape resources was not expected and the applicant had proposed landscape treatment to mitigate the potential visual impact of the building and the 2.3m high retaining walls, the Chief Town Planner/Urban Design and Landscape had no objection to the application subject to the incorporation of approval conditions on the submission and implementation of landscape proposal;
- (iv) although the application site fell within the “AGR” zone, the Agriculture, Fisheries and Conservation Department had no comment on the application from the agricultural point of view taking into account that the proposed pumping station was a public utility installation with a small development footprint; and

- (v) the applicant had consulted the Tai Po Rural Committee, the Environment, Housing and Works Committee of the Tai Po District Council, the Lam Tsuen Valley Committee, concerned village representatives and local villagers, and they generally supported the implementation of the proposed sewerage scheme and had no objection to the location of the proposed pumping station.

27. Members had no question on the application.

### Deliberation Session

28. Mr. Ambrose S.Y. Cheong of Transport Department (TD) suggested the revision of advisory clause (e) in paragraph 11.2 of the Paper by adding that the existing village access was not under the TD's management. Members agreed.

29. After further 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 6.5.2015, 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 submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the TPB;
- (b) the provision of water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (c) the provision of protective measures to ensure no pollution or siltation occurred to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the TPB.

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

- (a) to resolve any land issue relating to the development with the concerned

owner(s) of the application site;

- (b) to note the comments of the District Lands Officer/Tai Po that the applicant should apply to his office for a simplified temporary government land allocation to facilitate the construction works and thereafter apply for a permanent government land allocation for the occupation of the site for sewage pumping station;
- (c) to note the comments of the Director of Environmental Protection that the mitigation measures proposed by the applicant to alleviate the adverse environmental impacts of the proposed development during its construction and operation stages should be fully implemented;
- (d) to comply with the conditions of the Chief Engineer/Development (2), Water Supplies Department as detailed in Appendix II of the Paper;
- (e) to note the comments of the Commissioner for Transport that the existing village access was not under the Transport Department's management. The land status of the village access should be checked with the lands authority. The management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) to note the comments of the Director of Fire Services that the emergency vehicular access arrangement should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue administered by the Buildings Department, and detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that trees, instead of palm and bamboo, should be planted at the peripheral planters with a minimum height of 3m, and a formal landscape proposal with detailed information such as proposed species, size and typical spacing should be submitted for further

review;

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that formal submission for approval under the Buildings Ordinance was required. The development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at the building plan submission stage if the site did not abut on a specified street of a width not less than 4.5m. The applicant should also note B(P)R 41D regarding the provision of emergency vehicular access to the proposed development; and
- (i) to note the comments of the Director of Electrical and Mechanical Services that if there was underground cable (and/or overhead line) within or in the vicinity of the application site, the applicant should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure prior to establishing any structure within the application site. The applicant and his contractors should observe the ‘Code of Practice on Working near Electricity Supply Lines’ established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of electricity supply lines.

## **Agenda Item 12**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LT/418            Proposed Public Utility Installation (Sewage Pumping Station)  
in “Agriculture” zone,  
Lots 1543 (Part) and 1545 (Part) in D.D. 19,  
Ha Tin Liu Ha, Lam Tsuen, Tai Po  
(RNTPC Paper No. A/NE-LT/418)

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**Presentation and Question Sessions**

31. Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed public utility installation (sewage pumping station), which was submitted by the Drainage Services Department, comprised a single-storey building with a gross floor area (GFA) of about 99m<sup>2</sup> and a height of about 4.55m and a single-storey kiosk for housing fire services equipment with a GFA of about 6m<sup>2</sup> and a height of about 2.8m. The proposed development would require excavation of land at a maximum level of 5m for accommodating underground pumping facilities;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, a public comment was received from Designing Hong Kong Limited raising objection to the application on the ground that the proposed development was not in line with the planning intention for the area which was zoned “AGR”; 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 which were summarised below:
  - (i) according to the applicant, the proposed sewage pumping station, being part of the Lam Tsuen Valley Sewerage Project, was essential for collecting and conveying the sewage generated from the villages on the relatively flat terrain to the proposed Lam Kam Road trunk sewer and further to the Tai Po Sewage Treatment Works for proper treatment and disposal. Upon completion of the sewerage scheme, the water pollution problem in the unsewered areas in Lam Tsuen Valley area could be alleviated and the living environment of the area

could be improved. After considering three other alternative sites within the same “AGR” zone, the subject site was found to be more preferable as it could fulfil the technical requirements and was accepted by the villagers and landowners concerned;

- (ii) the pumping facilities would be enclosed within an underground concrete structure and deodorisation equipment would be installed for controlling odour from the proposed sewage pumping station. According to the applicant, with the implementation of mitigation measures, the proposed sewage pumping station would unlikely cause adverse noise, odour and other environmental impacts on the nearby sensitive receivers during both the construction and operation stages. While the site was located within the water gathering ground (WGG), the applicant had mitigation and contingency plans, such as the provision of emergency retention storage tank to minimise the chance of sewage overflow to the surrounding areas. In this connection, the Environmental Protection Department had no objection to the application and the Water Supplies Department had no objection to the application subject to the incorporation of approval conditions as detailed in Appendix II of the Paper;
- (iii) the proposed pumping station was considered not incompatible with the surrounding environment and significant adverse impact from the proposed development on landscape resources was not expected. The applicant had proposed landscape treatment to mitigate the potential visual impact of the building. The Chief Town Planner/ Urban Design and Landscape had no objection to the application subject to the incorporation of approval conditions on the submission and implementation of landscape proposal;
- (iv) regarding the public comment against the application as the proposed development was not in line with the planning intention of “AGR” zone, the Director of Agriculture, Fisheries and Conservation had no comment on the application from the agricultural point of view in view of the small development footprint of the proposed pumping

station; and

- (v) the applicant had consulted the Tai Po Rural Committee, the Environment, Housing and Works Committee of the Tai Po District Council, the Lam Tsuen Valley Committee, concerned village representatives and local villagers, and they generally supported the implementation of the proposed sewerage scheme and had no objection to the location of the proposed pumping station.

32. Members had no question on the application.

### Deliberation Session

33. To incorporate the Transport Department (TD)'s comments, Ms. Lisa L.S. Cheng proposed to revise advisory clause (e) in paragraph 11.2 of the Paper by adding that the existing village access was not under the TD's management. Members noted.

34. After further 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 6.5.2015, 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 submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the TPB;
- (b) the provision of water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (c) the provision of protective measures to ensure no pollution or siltation occurred to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the TPB.

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

- (a) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) to note the comments of the District Lands Officer/Tai Po that the applicant should apply to his office for a simplified temporary government land allocation to facilitate the construction works and thereafter apply for a permanent government land allocation for the occupation of the site for sewage pumping station;
- (c) to note the comments of the Director of Environmental Protection that the mitigation measures, as proposed by the applicant, to alleviate the adverse environmental impacts of the proposed development during its construction and operation stages should be fully implemented;
- (d) to comply with the conditions of the Chief Engineer/Development (2), Water Supplies Department as detailed in Appendix II of the Paper;
- (e) to note the comments of the Commissioner for Transport that the existing village access was not under the Transport Department's management. The land status of the village access should be checked with the lands authority. The management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) to note the comments of the Director of Fire Services that the emergency vehicular access arrangement should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue administered by the Buildings Department, and detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that a formal landscape proposal with detailed information such as proposed species, size and typical spacing

should be submitted for further review;

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that formal submission for approval under the Buildings Ordinance was required. The development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at the building plan submission stage if the site did not abut on a specified street of a width not less than 4.5m. The applicant should also note B(P)R 41D regarding the provision of emergency vehicular access to the proposed development; and
- (i) to note the comments of the Director of Electrical and Mechanical Services that if there was underground cable (and/or overhead line) within or in the vicinity of the application site, the applicant should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure prior to establishing any structure within the application site. The applicant and his contractors should observe the ‘Code of Practice on Working near Electricity Supply Lines’ established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of electricity supply lines.

### **Agenda Item 13**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TP/486

Proposed Field Study/Education Centre

in “Green Belt” zone,

Lot 637 in D.D. 32, Wong Yi Au Village, Tai Po

(RNTPC Paper No. A/TP/486)

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Presentation and Question Sessions

36. Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed field study/education centre;
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application from the landscape planning perspective as the submission failed to demonstrate that the proposed structures would not have adverse impacts on the existing trees and the scope of works, including site clearance, would not lead to significant adverse impacts on landscape resources such as woodland trees and native vegetation. The proposed development might set a precedent for the encroachment of development upon the “Green Belt” (“GB”) zone resulting in clearance of existing natural vegetation;
- (d) during the statutory publication period, four public comments from Designing Hong Kong Limited and local residents were received. They raised objection to the application mainly on the grounds that the site was zoned “GB”; there was no information on tree protection and management during and after construction and no provision of tree compensation scheme; it would set an undesirable precedent for similar applications; it would affect the fung shui of an ancestral grave located to the east of the site and future development of the adjoining Lot 96; and there were concerns on the possible adverse traffic impacts of the proposed development as no public parking space was provided, safety hazards to the students of an existing school due to the construction works, and possible conversion of the proposed building into residential use;
- (e) the District Officer (Tai Po) advised that the proposed footpath to the site would not be constructed or maintained by his office; and

- (f) the PlanD's views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper which were summarised below:
- (i) the application site in Wong Yi Au formed part of a continuous well-wooded hill slopes zoned “GB”. There was a general presumption against development within this zone. According to the applicant, the proposed education centre was for teaching children, middle-aged people and the elderly general knowledge on Chinese medicine and healthy eating habits with classes during weekends. The proposal would involve the construction of a two-storey building with a built-over area of 144m<sup>2</sup> and a floor area of 288m<sup>2</sup> and a pedestrian footpath leading from the existing footpath to the subject site through vegetated unleased/unallocated government land. There were no strong planning justifications provided in the submission for a departure from the planning intention of “GB” zone and to explain why the proposed activities could not be carried out in regular building premises; and
  - (ii) according to the Town Planning Board Guidelines No. 10, an application for new development in “GB” zone would only be considered in exceptional circumstances and should be justified with very strong planning grounds. The design and layout of the proposed development should be compatible with the character of the surrounding areas and the development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment. In this regard, CTP/UD&L had reservation on the application from the landscape planning perspective as no information had been provided to demonstrate that the proposed building, access footpath and site formation works would not have adverse impacts on existing trees and would not lead to significant adverse impacts on landscape resources such as woodland trees and native vegetation. As there was a general presumption against development within the “GB” zone, approval of the proposed

development might set a precedent for developments encroaching upon the “GB” zone and resulting in further clearance of existing natural vegetation affecting the amenity value of the “GB” zone.

37. Members had no question on the application.

#### Deliberation Session

38. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zoning for the area which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. No strong planning justifications had been provided in the submission for a departure from this planning intention;
- (b) the application did not comply with the Town Planning Board Guidelines No. 10 on “Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance” in that no information had been provided to demonstrate that the proposed development would not involve extensive clearance of existing natural vegetation and affect the existing natural landscape; and
- (c) approval of the application would set an undesirable precedent for other similar development proposals in the “GB” zone. The cumulative effect of approving such proposals would result in a general degradation of the rural environment and landscape quality of the area.

**Agenda Item 14**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TP/489          Proposed Two Houses (New Territories Exempted Houses – Small Houses)  
in “Green Belt” zone,  
Lots 939 S.A and 939 S.B in D.D. 22,  
Pan Chung San Tsuen, Tai Po  
(RNTPC Paper No. A/TP/489)

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**Presentation and Question Sessions**

39.            Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed two houses (New Territories Exempted Houses – Small Houses);
- (c) departmental comments – the District Lands Officer/Tai Po (DLO/TP) objected to the application as less than 50% of the application site fell within the village ‘environs’ (‘VE’) of Pan Chung San Tsuen. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape planning perspective. The site was situated at the foot of a slope on the edge of the “GB” zone. The slope acted as a buffer between the rural and the urban elements. Hence, the two proposed houses located on the slope were considered not compatible with the surrounding landscape character. Also, the proposed use was not in line with the planning intention of “GB” zone. Approval of the application would set an undesirable precedent for similar Small House applications in the area encouraging urban sprawl and degrading the landscape quality of the “GB” zone. Moreover, it appeared that slope formation works would be required for the proposed

development, but no information was provided to demonstrate the slope works and site formation would not cause significant adverse impacts to the slope stability or the vegetation nearby;

- (d) during the statutory publication period, a public comment was received from Designing Hong Kong Limited raising objection to the application on the grounds that the proposed development was incompatible with the zoning intention and character of the area; a sustainable layout with quality design was not available for the area; and approval of further development without a sustainable layout would have adverse impacts on the living environment and the well being of residents and create health and social problems; and
- (e) the PlanD's views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) the proposed Small House did not comply with the 'Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories' in that the application site and the proposed houses fell entirely outside the "Village Type Development" ("V") zone and less than 50% of the proposed houses was within the 'VE' of the village. Development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances. The applicant had not provided strong justifications to support the application. The DLO/TP did not support the application as less than 50% of the proposed house fell within the 'VE';
  - (ii) the proposed NTEH (Small House) was not in line with the planning intention of the "GB" zoning for the area. There was a general presumption against development within this zone, and no justification was provided in the submission for a departure from the planning intention; and

(iii) the site was at the foot of a vegetated hillslope and contiguous to an existing school zoned “G/IC” with the slope on the edge of the “GB” zone acting as a buffer between the hillside and the “G/IC” zone. CTP/UD&L objected to the application from the landscape planning perspective as the two proposed houses were not compatible with the surrounding landscape character. Slope formation works seemed unavoidable for the proposed development but no information had been provided to demonstrate the site formation and slope works would not cause significant adverse impacts to the slope stability or the vegetation nearby. Approval of the application would set an undesirable precedent for similar Small House applications in the area encouraging urban sprawl and degrading the landscape quality of the “GB” zone. The cumulative impact of approving such applications would result in general degradation of the natural environment of the area.

40. Members had no question on the application.

#### Deliberation Session

41. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed New Territories Exempted House (NTEH)/Small House was not in line with the planning intention of the “Green Belt” (“GB”) zoning for the area which was to define the limits of urban and sub-urban development areas by natural features so as to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed development did not comply with the ‘Interim Criteria for

Consideration of Application for NTEH/Small House in the New Territories' in that the application site and the proposed houses fell entirely outside the "Village Type Development" zone and less than 50% of the proposed houses was within the village 'environs' of a recognized village;

- (c) no information had been provided in the submission to demonstrate that the site formation and slope works for the proposed development would not have adverse impacts on the slope stability and the vegetation nearby; and
- (d) approval of the application would set an undesirable precedent for similar developments within the "GB" zone. The cumulative effect of approving such applications would result in a general degradation of the natural environment.

[Mr. Andrew Y.T. Tsang of Home Affairs Department left the meeting at this point.]

### **Agenda Item 15**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TP/490            Proposed House (New Territories Exempted House – Small House)  
                         in "Village Type Development" and "Green Belt" zones,  
                         Lot 557 S.E and 558 RP (Part) in D.D. 32 and  
                         Adjoining Government Land, Ha Wong Yi Au, Tai Po  
                         (RNTPC Paper No. A/TP/490)

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#### **Presentation and Question Sessions**

42.            Ms. Lisa L.S. Cheng, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed house (New Territories Exempted House – Small House);
- (c) departmental comments – the District Lands Officer/Tai Po (DLO/TP) did not support the application as less than 50% of the proposed Small House fell within the village ‘environs’ (‘VE’) and it was completely outside the “Village Type Development” (“V”) zone. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape planning perspective. The site was located at the lower foothill of a wooded slope, with a majority of the footprint of the proposed house fell within the “Green Belt” (“GB”) zone. The proposed building platform would involve slope cutting and constructing a retaining wall with a maximum height of 3.5m. As the construction and site formation works would very likely result in more of the wooded slope being disturbed and encroachment upon the “GB” zone, the proposed development was considered incompatible with the existing landscape character. Approval of the application would also set an undesirable precedent for similar Small House applications in the area defeating the purpose of the green belt and render an unfavourable environment for preserving the existing wooded area. Moreover, he had reservation on the application from the urban design and visual perspectives. The proposed Small House together with the building platform and the retaining wall were considered massive in bulk and visually intrusive. The applicant should demonstrate whether there were other alternatives to reduce the bulk and the potential visual impact of the proposed development (including the building platform) on the surrounding areas;
- (d) during the statutory publication period, two public comments were received. One of the comments from the Hong Kong Bird Watching Society Limited objected to the application on the grounds that as the site was on a semi-natural slope, the proposed development would lead to a degradation of quality of the habitat and irreversible impact on biodiversity and affect an adjacent large mature Camphor Tree (*Cinnamomum camphora*). The other comment submitted by the Kadoorie Farm and Botanic Garden

Corporation expressed concern on the possible damage to the same mature Camphor Tree and suggested that slope cutting and construction should be properly addressed by restricting the soil excavation works away from the critical root zone and establishing an effective tree protection area under the drip line; and

- (e) the PlanD's views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) the proposed Small House did not comply with the 'Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories' in that over 50% of the Small House footprint fell outside both the 'VE' of Ha Wong Yi Au and the "V" zone. Development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances. In this regard, DLO/TP did not support the application;
  - (ii) the proposed development would involve extensive site formation works by cutting into the natural slopes and clearance of existing vegetation. The Head of Geotechnical Engineering Office, Civil Engineering and Development Department stated that the applicant would be required to submit a Geotechnical Planning Review Report and assess the geotechnical feasibility of the proposed development as well as a site formation plan to the Buildings Department. CTP/UD&L objected to the application as the construction of the proposed Small House and associated site formation works would likely result in more of the wooded slope being disturbed encroaching upon the "GB" zone. He also had reservation on the application from urban design and visual perspectives as the proposed Small House together with the building platform (which would be elevated up to 3.5m above the formation level) and retaining wall were considered massive in bulk and visually intrusive. Therefore, the application did not comply with the Town Planning Board Guidelines

No. 10 in that the proposed development was incompatible with the existing landscape character of the surrounding areas and the development and site formation works involving extensive clearance of existing vegetation would affect the existing natural landscape and cause adverse visual impact on the surrounding environment. Approval of the application would set an undesirable precedent for similar developments within the “GB” zone, defeating the purpose of the green belt and render an unfavourable environment for the preservation of the existing wooded area; and

- (iii) as compared with an application (No. A/TP/478) for proposed Small House development at the adjoining site which was rejected by the Committee on 18.3.2011, the current application was located on the same elevated platform and hence the concerns on extensive site formation works and adverse landscape and visual impacts arising from the proposed development would be similar. The reasons of not supporting Application No. A/TP/478 were therefore applicable to the current application. Regarding Application No. A/TP/444, it was approved by the Committee on 23.4.2010 as over 50% of the application site fell within the “V” zone; no felling of trees was involved and the proposed slope works were much smaller in scale. The current application could not warrant the same consideration as Application No. A/TP/444.

43. Members had no question on the application.

#### Deliberation Session

44. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the application did not comply with the ‘Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories’ in that more

than 50% of the footprint of the proposed house fell outside both the village ‘environs’ and the “Village Type Development” zone of a recognized village;

- (b) the application did not comply with the Town Planning Board Guidelines for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the extensive site formation works would involve extensive clearance of existing natural vegetation and cause adverse landscape impacts on the surrounding areas;
- (c) the information provided in the submission was insufficient to demonstrate that the proposed development and site formation works and elevated platform with a height of 3.5m would not have adverse slope safety, drainage and visual impacts on the surrounding areas; and
- (d) the approval of the application would set an undesirable precedent for other similar development proposals in the “Green Belt” zone. The cumulative effect of approving such proposals would result in a general degradation of the environment in the area.

### **Agenda Item 16**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/FSS/201 Proposed Temporary Shop and Services (Retail Shop) for a Period of 6 Years  
in “Residential (Group A)” zone,  
Lot 3035 RP (Part) in D.D. 51, Fanling  
(RNTPC Paper No. A/FSS/201A)

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#### **Presentation and Question Sessions**

45. Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application – the application site formed part of a larger site which was the subject of six previous applications (No. A/FSS/103, 137, 159, 169, 187 and 197) for a temporary public vehicle park. Applications No. A/FSS/103, 137, 159, 169 and 187 were approved with conditions by the Town Planning Board (the Board) on review or the Committee on temporary basis since 1998. However, the planning permissions for Applications No. A/FSS/169 and 187 were revoked by the Board on 28.7.2009 and 4.6.2010 respectively due to non-compliance with approval conditions on operation hours and parking of private cars only. The latest application (No. A/FSS/197) was rejected on review by the Board on 7.1.2011. The temporary vehicle park was currently in operation without a valid planning permission. Also, the temporary vehicle park was the subject of continuous complaints from residents of the adjoining Fanling Centre regarding noise nuisance and light disturbance during the operation of the vehicle park;
- (b) the proposed temporary shop and services (retail shop) for a period of six years – according to the applicant, the proposed retail shop would sell flowers, planting tools, fertilizer, bottled soft drinks, biscuits and newspaper, etc. The application site would accommodate a one-storey (about 2.6m high) container-converted structure and one loading/unloading bay. The proposed floor area and site coverage would be about 9.61m<sup>2</sup> and 7% respectively. The application site could be accessed via San Wan Road while the shop front would face the cycle track along its southern boundary. The operation hour was from 9:00 a.m. to 8:00 p.m.;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, five public comments were received. One of the comments from a North District Council member considered that the proposed retail shop might have possible adverse impacts on local residents and the residents of Fanling Centre should be consulted.

Another comment from a resident of Fanling Centre objected to the proposed development and stated that the application site formed part of a larger site which was involved in previous planning permissions for temporary public vehicle park. The permissions were revoked repeatedly due to non-compliance with approval conditions. As the temporary vehicle park had adversely affected the local residents, it was doubtful whether the proposed retail shop would be operated properly without affecting local residents. The temporary vehicle park should stop operation, and the area of the vehicle park including the application site should be used as a venue for ball games, sports ground, jogging trail or low-rise development. The remaining three comments were submitted by the landlords of Fanling Centre Shopping Arcade stating that there was no shortfall of retail floor space in the area. Approval of the application would set undesirable precedent for similar informal retail use leading to a general degradation of the area. There was a lack of proper control and management to avoid abuse of use. There were also concerns on odour and hygienic problems, noise issue, pedestrian and cyclist safety, fire safety and visual issue;

- (e) the District Officer (North) advised that the previous complainant on the temporary public vehicle park was informed of the application and his office did not receive any comment from this complainant; and
- (f) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under the application could be tolerated for a period of three years, instead of six years as proposed by the applicant, based on the assessments set out in paragraph 11 of the Paper which were summarised below:
  - (i) the application site was zoned “Residential (Group A)” on the Outline Zoning Plan and fell within an area designated “Local Open Space” (“LO”) on the adopted Fanling/Sheung Shui Layout Plan No. L/FSS 13/1. The Director of Leisure and Cultural Services had indicated that there was no implementation programme for the

planned LO. As the proposed temporary retail shop was only an interim use, it would not affect the implementation of the LO and approval of the application on a temporary basis would not frustrate the long-term planning intention;

- (ii) the proposed retail shop was not incompatible with the surrounding areas which were mainly characterized by domestic structures, temporary structures and high-rise residential development. In view of the small scale of the proposed retail shop (a floor area of about 9.61m<sup>2</sup>) and its nature of operation, it was unlikely that the proposed development would have adverse impacts on the surrounding areas. Concerned government departments had no objection to or adverse comments on the application;
- (iii) the objection raised by the resident of Fanling Centre was mainly against the existing public vehicle park covering the application site while the objections raised by the owners of Fanling Centre Shopping Arcade were mainly related to the setting of undesirable precedent, adverse impacts on odour and hygienic issue and other technical concerns. It should be noted that the current application was for a different use and submitted by a different applicant. Each application should be considered on its own individual merits. Nevertheless, an approval condition restricting the operation hours of the proposed retail shop was recommended to minimize possible adverse environmental impacts on the surrounding areas; and
- (iv) notwithstanding the above, a temporary approval of three years was recommended in order not to jeopardise the long-term planning intention of “LO” for the subject site and to allow the relevant departments to monitor the situation in the area.

46. Members had no question on the application.

Deliberation Session

47. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.5.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) the submission of drainage proposals within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.11.2011;
- (c) in relation to (b) above, the implementation of drainage proposals within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.2.2012;
- (d) the submission of fire service installations and water supplies for fire-fighting proposals within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.11.2011;
- (e) in relation to (d) above, the implementation of fire service installations and water supplies for fire-fighting proposals within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.2.2012;
- (f) the submission of landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.11.2011;
- (g) in relation to (f) above, the implementation of landscape proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.2.2012;

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

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

- (a) a shorter approval period of three years was given in order to allow the relevant departments to monitor the situation in the area and to ensure that the long-term planning intention of “Local Open Space” for the subject site would not be jeopardized;
- (b) the permission was given to the use/development proposed under application. It did not condone any other use/development which currently existed on the site but not covered by the application. The applicant should take immediate action to discontinue such use/development not covered by the permission;
- (c) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (d) to apply to the District Lands Officer/North for a Short Term Waiver for the proposed development;
- (e) to note the comments of the Commissioner for Transport that the vehicular access was not under the Transport Department’s management. The applicant was advised to check the land status of the access with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;

- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:
  - (i) the granting of the planning approval should not be construed as condoning to any unauthorized structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the BO or other enactment might be taken if contravention was found;
  - (ii) if container was used as shop, it was considered as temporary buildings and were subject to control under Building (Planning) Regulations (B(P)R) Part VII; and
  - (iii) formal submission of any proposed new works, including temporary structure, for approval under the BO was required. If the site did not abut on a specified street having a width not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage. Also, the applicant should note B(P)R 41D regarding the provision of emergency vehicular access to the proposed development;
  
- (g) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that for provision of water supply to the development, the applicant might need to extend his inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply, and be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards. Besides, the application site was located within WSD flood pumping gathering ground;
  
- (h) to note the comments of the Director of Fire Services that if no building plan would be circulated to the Fire Services Department (FSD) and covered structures (e.g. container-converted office, temporary warehouse

and temporary shed used as workshop) were erected within the site, the applicant should submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to FSD for approval, and provide the FSIs in accordance with the approved proposal. In preparing the submission, the applicant should note that the layout plans were drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSI to be installed and the access for emergency vehicles should be clearly indicated on the layout plans. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans; and

- (i) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that tree planting along the site boundary was preferred to enhance greenery of the site.

### **Agenda Item 17**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTS/305    Renewal of Planning Approval for Temporary ‘Godown with Ancillary Office and Staff Quarters’ Use under Application No. A/NE-KTS/261 for a Period of 3 Years in “Recreation” zone,  
Lots 1623 S.B, 1624 S.A to S.I, 1624 RP, 1626, 1628, 1629 and  
1631 to 1637 in D.D. 100 and Adjoining Government Land,  
Ying Pun, Kwu Tung South  
(RNTPC Paper No. A/NE-KTS/305A)

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49.            The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had business dealings with Cheung Wing Architects & Engineers Limited, one of the consultants of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

#### **Presentation and Question Sessions**

50. Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the renewal of planning approval for temporary ‘godown with ancillary office and staff quarters’ use under Application No. A/NE-KTS/261, which would be valid until 9.5.2011, for a period of three years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the application site and environmental nuisance was expected;
- (d) during the statutory publication period of the application, two public comments were received from two North District Council (NDC) members. One of them had no comment on the application whereas the other one supported the application without giving any reason. During the statutory publication period of the further information on the application, two public comments were received from the same NDC members with the same comments;
- (e) the District Officer (North) advised that the Chairman of Sheung Shui District Rural Committee, residents representative of Ying Pun and the concerned NDC member had no comment on the application; and
- (f) the Planning Department (PlanD)’s views – PlanD considered that the temporary use under the application could be tolerated for another three years based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) the application was generally in line with the Town Planning Board Guidelines No. 34B in that all the conditions of the previous approval under Application No. A/NE-KTS/261 had been complied with; there

had been no material change in planning circumstances and change in land uses of the surrounding areas since the granting of the previous approval; and the 3-year approval period sought was of the same timeframe as the previous approval. The current application was the same as the previous application in terms of the applied use, site area and boundary, development parameters and layout. Except with the addition of ancillary staff quarters at the north-eastern part of the application site, there was no change in other development parameters of the applied use;

- (ii) although the use under application was not in line with the planning intention of the “Recreation” (“REC”) zone, it was noted that the site had been formed and used as godown with ancillary office since 2006 and there was currently no intention to use the site for recreational activities. Hence, approval of this temporary use should not jeopardize the long-term planning intention of the “REC” zone. Besides, the temporary godown use was considered not incompatible with the surrounding land uses, which were predominantly vehicle repairing and metal workshops, open storage yards of metal and recycling materials, vacant land, fallow agricultural land and domestic structures. Hence, the temporary use was unlikely to cause adverse traffic, drainage and landscape impacts on the surrounding areas;
- (iii) although DEP did not support the application as there were sensitive receivers in the vicinity of the site (with the nearest one at a distance of less than 5m to the immediate north of the application site), there was no pollution complaint related to the site in the past three years. To address DEP’s concerns, approval conditions restricting the operation hours and prohibiting heavy goods vehicles, including container tractors/trailers, for transportation of goods to/from the application site were recommended; and
- (iv) both the Director of Agriculture, Fisheries and Conservation and the Chief Town Planner/Urban Design and Landscape had advised that

most of the existing trees within the application site were found severely over pruned or topped which affected the healthy growth of trees. To address their concerns, an approval condition requiring the submission and implementation of landscape and tree maintenance proposals was recommended. Besides, the applicant would be advised that a good tree pruning practice was to limit the removal of crown to not more than one quarter of the original coverage in each pruning operation and to replace any tree in poor condition.

51. Members had no question on the application.

#### Deliberation Session

52. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years from 10.5.2011 to 9.5.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no operation between 11:00 p.m. and 7:00 a.m. was allowed on the application site during the planning approval period;
- (b) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, were allowed for transportation of goods to/from the application site at any time during the planning approval period;
- (c) the existing drainage facilities on the application site should be maintained at all times during the planning approval period;
- (d) the submission of a condition record of the existing drainage facilities implemented under Applications No. A/NE-KTS/240 and 261 within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 9.8.2011;

- (e) the submission of landscape and tree maintenance proposals within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the TPB by 9.11.2011;
- (f) in relation to (e) above, the implementation of landscape and tree maintenance proposals within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the TPB by 9.2.2012;
- (g) the submission of water supplies for fire-fighting and fire service installations proposals within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 9.11.2011;
- (h) in relation to (g) above, the implementation of water supplies for fire-fighting and fire service installations proposals within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 9.2.2012;
- (i) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (j) if any of the above planning conditions (d), (e), (f), (g) or (h) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (k) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the District Lands Officer/North that there was no guarantee that the Short Term Waiver (STW) and Short Term Tenancy (STT) would be granted to the applicant. If STW and STT were granted, it would be subject to such terms and conditions, including the payment of STW/STT fee/rent, as might be imposed by the Lands Department;
- (b) to note the comments of the Commissioner for Transport that the vehicular access to the application site was via a village track connecting with Fan Kam Road and the unnamed village track was not under the Transport Department's management. The land status of the access leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that 75 existing trees were found severely over-pruned which affected the healthy growth of trees. It should be noted that a good tree pruning practice was to limit the removal of crown to not more than one quarter of the original coverage in each pruning operation. Moreover, a proper tree maintenance proposal with methodology should be submitted and any tree in poor condition should be replaced;
- (d) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that all unauthorized building works/structures(s) existing on the application site should be removed. An Authorized Person (AP) should be appointed to co-ordinate and submit demolition proposals to the Building Authority (BA) for approval, if so required under the Buildings Ordinance (BO). If new structures/building works were proposed for erection on the site, an AP should be appointed to submit plans to the BA for approval prior to commencement of any new building

works. The granting of the planning approval should not be construed as condoning to, toleration or indication of acceptance of any unauthorized building works/structures on site under the BO and the allied regulations;

- (e) to note the comments of the Chief Engineer/Development(2), Water Supplies Department that the Water Authority and his officers and contractors, his or their workmen with or without tools, equipment, machinery or motor vehicles should have the right of free ingress, egress and regress to and from the lot or any part thereof for the purpose of inspecting, operation, maintaining, repairing and renewing the existing 100m public water main. The said Authority and his officers and contractors, his or her workmen should have no liability in respect of any loss, damage, nuisance or disturbance whatsoever caused to or suffered by the applicant arising out of or incidental to the exercise by him or them the right of ingress, egress and regress, and no claim should be made against him or them by the applicant in respect of any loss, damage, nuisance or disturbance. Besides, the application site was within the flood pumping gathering grounds associated with River Indus and River Ganges pumping stations;
  
- (f) to note the comments of the Director of Fire Services that if no building plan would be circulated to his department and covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) were erected within the application site, relevant layout plans incorporated with the proposed fire service installations (FSIs) should be submitted to his department for approval and FSIs should be provided in accordance with the approved proposal. In preparing the submission, the applicant should note that the layout plans were drawn to scale and depicted with dimensions and nature of occupancy, and the location of the proposed FSIs to be installed and the access for emergency vehicles were clearly indicated on the layout plans. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans; and

- (g) to follow the environmental mitigation measures as set out in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Director of Environmental Protection in order to minimize any possible environmental nuisances.

**Agenda Item 18**

**Section 16 Application**

[Open Meeting]

A/NE-LK/63 Proposed Two Houses (New Territories Exempted Houses – Small Houses) in “Agriculture” and “Village Type Development” zones, Lots 1876 S.A, 1876 S.E and 1888 S.A in D.D. 39, Shek Kiu Tau Village, Sha Tau Kok Road  
(RNTPC Paper No. A/NE-LK/63)

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54. The Secretary reported that on 6.5.2011, the applicant’s representative submitted a letter requesting for a deferment of the consideration of the application for two months in order to have more time to prepare additional supporting information. The letter had been tabled at the meeting for Members’ reference.

55. The Secretary informed Members that, according to the Town Planning Board (TPB) Guidelines No. 33 on ‘Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance’, a request for deferment either by the applicant or the Planning Department up to two months would normally be granted by the TPB. In considering a deferment request, the TPB would take into account all relevant factors, including the reasonableness of the request, duration of the deferment, and whether the right or interest of other concerned parties would be affected. Members noted that this was the first request for deferment submitted by the applicant and the period of deferment was two months. The Secretary said that the request complied with the requirements as set out in the TPB Guidelines No. 33.

56. 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. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 19**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/439      Proposed Temporary Open Storage of Metal, Scrap Metal,  
Equipment for Renovation, Documents and Home Furniture  
for a Period of 3 Years in “Village Type Development” zone,  
Lot 1422 RP (Part) in D.D. 83, San Uk Tsuen, Fanling  
(RNTPC Paper No. A/NE-LYT/439)

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#### **Presentation and Question Sessions**

57.      Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application – the application site was subject to planning enforcement action for unauthorized storage use (including deposit of containers) and workshop use. Enforcement Notice was issued to the concerned landowner on 1.4.2011 requiring discontinuation of the unauthorized development by 1.7.2011;
- (b) the proposed temporary open storage of metal, scrap metal, equipment for renovation, documents and home furniture for a period of three years;
- (c) the departmental comments were detailed in paragraph 10 of the Paper and highlighted below:
  - (i) the District Lands Officer/North (DLO/N) did not support the

application because the application site fell entirely within the “Village Type Development” (“V”) zone and village ‘environs’ (‘VE’) of San Uk Tsuen (Lung Yeuk Tau), where the land was primarily reserved for Small House development by indigenous villagers under the Small House Policy;

- (ii) the Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the application site and environmental nuisance was expected. Moreover, three pollution complaints on air, waste and noise for the application site were received in the past three years;
  - (iii) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape point of view. With reference to the aerial photo taken in 2009, it was noted that the surrounding areas of the site were generally dominated by village houses. The proposed placing of 30 large containers on the site was incompatible to the landscape character of the village houses adjacent to the site. Approval of the application might encourage further proliferation of open storage sites in the “V” zone which would have adverse impact on the existing village landscape character; and
  - (iv) the Project Manager/New Territories North and West, Civil Engineering and Development Department advised that the application site was close to the Fanling Bypass alignment proposed under the North East New Territories New Development Areas (NDAs) Planning and Engineering Study. As the site formation works for the NDAs development were tentatively scheduled to commence in 2016, it was suggested that the approval period for the application would not be later than the year of 2015;
- (d) no public comment was received during the statutory publication period;
- (e) the District Officer (North) advised that the Chairman of Fanling District

Rural Committee and one of the Indigenous Inhabitants Representative (IIR) of Lung Yeuk Tau had no comment on the application, whereas the other IIRs and Residents Representative of Lung Yeuk Tau raised objection to the application on the grounds that the proposed development would affect the living environment, landscape and residents' health; and there were outsiders/strangers frequently entering/leaving the application site and hence affecting the public order within the village; and

- (f) the PlanD's views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper which were summarised below:
- (i) the application site was located entirely within the “V” zone and ‘VE’ of San Uk Tsuen. The proposed use of the site for temporary open storage of metal, equipment for renovation, documents and home furniture was not in line with the planning intention of the “V” zone in the Lung Yeuk Tau and Kwan Tei South area. There was no strong planning justification provided in the submission for a departure from this planning intention, even on a temporary basis. In this regard, DLO/N did not support the application and considered that the site should be reserved for Small House development by indigenous villagers;
  - (ii) the application did not comply with the Town Planning Board (TPB) Guidelines No. 13E in that applications with the sites falling within Category 4 Areas would normally be rejected and there was no exceptional circumstances to justify the development; there were adverse departmental comments and local objections; and the application was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses;
  - (iii) the proposed development was not compatible with the surrounding uses which were predominantly characterized by village settlements of San Uk Tsuen in the east and south and Kan Lung Tsuen in the north. In this regard, CTP/UD&L objected to the application as the

proposed use involving the deposition of 30 large containers closely arranged together was incompatible to the landscape character of the village houses adjacent to the site;

- (iv) the proposed temporary open storage might pose adverse environmental nuisance on the surrounding areas. DEP did not support the application as there were sensitive uses in the vicinity of the site (with the nearest domestic use at a distance of about 5m to the immediate north-east of the application site). The applicant failed to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas;
- (v) there was no other similar application in the “V” zone in the vicinity of the application site in the Lung Yeuk Tau and Kwan Tei South area. Approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in adverse environmental and landscape impacts of the area;
- (vi) although the application site was the subject of two previous applications (No. A/NE-LYT/270 and 385) for temporary public vehicle park for private cars and light goods vehicles (a temporary convenience store was also included under Application No. A/NE-LYT/385) which were approved with conditions by the TPB on review on 2.4.2004 and by the Committee on 5.12.2008 respectively, the nature of the use under the current application was different from the two previous applications in that the approved public vehicle park cum convenience store could meet the parking demand and serve the need of local villagers, but the proposed temporary storage was not directly related to the village type development of the area; and
- (vii) there were local objections to the current application conveyed by the District Officer (North) mainly on grounds of adverse impact on living environment, landscape, residents’ health and public order.

Deliberation Session

59. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Village Type Development” (“V”) zone in the Lung Yeuk Tau and Kwan Tei South area which was to designate both existing recognized villages and areas of land considered suitable for village expansion and land within this zone was primarily intended for development of Small Houses by indigenous villagers, and to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the proposed development did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13E) in that there was no exceptional circumstances to justify the development; there were adverse departmental comments and local objections against the application; and the application was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses;
- (c) the proposed development was incompatible with the village settlements in the surrounding areas;
- (d) there were domestic dwellings in close proximity of the application site. The proposed development might cause adverse environmental impacts on the local villagers. The applicant had not demonstrated that the proposed development would not cause adverse environmental impacts on the surrounding areas; and

- (e) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in adverse environmental and landscape impacts of the area.

**Agenda Items 20 and 21**

**Section 16 Applications**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-MUP/65      Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” and “Village Type Development” zones,  
Lot 144 S.A in D.D. 46, Tai Tong Wu Village, Sha Tau Kok Road  
(RNTPC Paper No. A/NE-MUP/65 and 66)

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A/NE-MUP/66      Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” and “Village Type Development” zones,  
Lot 144 RP in D.D. 46, Tai Tong Wu Village, Sha Tau Kok Road  
(RNTPC Paper No. A/NE-MUP/65 and 66)

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60.            The Committee noted that the two applications were grouped together under one RNTPC Paper as they were for the same use and the sites were located next to each other within the same “Agriculture” (“AGR”) and “Village Type Development” (“V”) zones. The Committee agreed that the two applications could be considered together.

**Presentation and Question Sessions**

61.            Ms. Doris S.Y. Ting, STP/STN, presented the applications and covered the following aspects as detailed in the Paper :

- (a) background to the applications;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small House) at each of the application site;

- (c) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the two applications from the agricultural development point of view as the application sites fell within an area zoned “AGR”. The agricultural life in the vicinity of the sites were active and the potential of rehabilitating the sites for agricultural activities was high. Moreover, there were two mature Camphor Trees in the immediate vicinity of the site under Application No. A/NE-MUP/65, and there were three mature trees in fair to poor condition adjacent to the site under Application No. A/NE-MUP/66. It was anticipated that the proposed Small Houses would affect the trees and that pruning of the trees might be required. Significant pruning of tree crown and root was undesirable to the health and structural stability of the trees;
- (d) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the applications from the landscape perspective mainly on the following grounds:

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- (i) the two existing mature trees together with topsoil within the site were found to be removed when comparing the current site photos with the aerial photo taken in August 2010. The landscape character and resources of the site had already been adversely affected. Although the proposed Small House was not incompatible with the surrounding environment, approval of the application might set an undesirable precedent of spreading village type development and encourage removal of mature trees in the surrounding areas. In addition, a mature tree, *Cinnomomum camphora*, adjacent to the south-eastern boundary of the site might be affected by the construction works;

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- (ii) although the proposed Small House was not incompatible with the surrounding environment, the three existing mature trees within the site might be affected by the proposed development. Approval of

the application might set an undesirable precedent of spreading village type development and encourage removal of mature trees in the surrounding areas. There was no information regarding tree preservation and no landscape proposal to ascertain the landscape impact;

- (e) during the statutory publication period, two public comments for each of the application were received from a North District Council (NDC) member and Designing Hong Kong Limited. While the NDC member supported both applications, Designing Hong Kong Limited objected to the two applications mainly on the grounds that the proposed development was incompatible with the zoning intention and character of the area; a sustainable layout with quality design was not available for the area; and approval of further development without a sustainable layout would have adverse impacts on the living environment and the well being of residents and create health and social problems;
- (f) the District Officer (North) advised that the concerned NDC member and Village Representatives of Tai Tong Wu had no comment on the application while the Chairman of Sha Tau Kok District Rural Committee did not express any comment during the local consultation period; and
- (g) the PlanD's views – PlanD had no objection to the applications based on the assessments set out in paragraph 11 of the Paper which were summarised below:
  - (i) the two proposed Small Houses under the two applications met the 'Interim Criteria for Consideration of Application for NTEH/ Small House in the New Territories' in that the footprints of the two houses fell entirely within the village 'environs' of Tai Tong Wu Village and there was insufficient land within the "V" zone of Tai Tong Wu Village to meet the Small House demand. Hence, sympathetic consideration could be given to the applications. In this regard, the District Lands Officer/North had no objection to the applications;

- (ii) although the proposed Small Houses were not in line with the planning intention of “AGR” zone and DAFC did not support the applications, the proposed Small Houses were not incompatible with the surrounding areas which were predominantly characterised by rural landscape with village proper of Tai Tong Wu Village to the south of the sites. The proposed Small Houses were unlikely to have significant adverse traffic, drainage and environmental impacts on the surrounding areas. Moreover, four similar applications for Small House development within the same “AGR” zone in the vicinity of the application sites had also been approved with conditions by the Committee;
  
- (iii) DAFC and CTP/UD&L objected to the proposed Small Houses and were concerned about the possible impacts of the development on the existing mature trees in close proximity of the application sites. Significant pruning of tree crown and root was undesirable to the health and structural stability of the trees, and there was no information regarding tree preservation and landscape proposals to ascertain the landscape impact. Noting that the mature trees, which were either located outside or at the north-western corner of the application sites, might not be directly affected by the footprints of the proposed Small Houses and there was possibility for the applicants to explore alternative layouts of the proposed development to avoid impact on existing mature trees as advised by DAFC, it was considered that the concern on tree preservation could be addressed by the incorporation of approval conditions requiring the submission and implementation of tree preservation and landscape proposals. Moreover, the applicants would be advised to explore alternative layouts of the proposed development so as to avoid impact on existing mature trees as far as possible; and
  
- (iv) regarding the public comment against the proposed Small House development, concerned government departments including the Transport Department, Environmental Protection Department, Drainage Services Department, Water Supplies Department and Fire

Services Department had no objection to or no adverse comment on the applications.

62. Members had no question on the applications.

#### Deliberation Session

63. After deliberation, the Committee decided to approve the applications, on the terms of the applications as submitted to the Town Planning Board (TPB). Each permission should be valid until 6.5.2015, 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. Each permission was subject to the following conditions :

- (a) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;
- (b) the provision of fire-fighting access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (c) the submission and implementation of tree preservation proposal before site formation to the satisfaction of the Director of Planning or of the TPB; and
- (d) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection and to resolve any land matter (such as private lots) associated with the provision of water supply and be responsible for the construction, operation and maintenance of the inside services within the private lots to

WSD's standards. Besides, the site was located within flood pumping gathering ground;

- (b) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that the site might be subject to flooding risk since there was past record of suspected unauthorized land filling of river nearby. The Consultants Management Division of DSD had carried out sewerage works in the vicinity of the application site under Contract No. DC/2002/08 (Northeast New Territories Village Sewerage Phase 2). The Environmental Protection Department should be consulted regarding the sewage treatment/disposal facilities for the proposed development;
- (c) to note the comments of the Commissioner for Transport that according to the applicant, there was a vehicular access leading to the application site which was not under the Transport Department's management. The applicant was advised to check the land status of the access with the lands authority. The management and maintenance responsibilities of the subject access should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal application referred by the Lands Department; and
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation that :

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there were two mature Camphor Trees in the immediate vicinity of the application site. It was anticipated that the proposed development would affect the trees and that pruning of the trees might be required. From a tree preservation point of view, significant pruning of tree crown and root was undesirable to the health and structural stability of the trees. The applicant should explore alternative layout of the proposed development so as to avoid

adverse impact on the mature Camphor Trees as far as possible;

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there were three mature trees in fair to poor condition adjacent to the application site. It was anticipated that the proposed development would affect these trees and that pruning of the trees might be required. The applicant should explore alternative layout of the proposed development so as to avoid adverse impact on the trees as far as possible.

**Agenda Item 22**

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-MUP/67          Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Lot 50 S.C ss.1 in D.D. 46,  
Tai Tong Wu Village, Sha Tau Kok Road  
(RNTPC Paper No. A/NE-MUP/67)

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65.            The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had business dealings with Ted Chan & Associates Limited, one of the consultants of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

Presentation and Question Sessions

66.            Ms. Doris S.Y. Ting, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small House);

- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, one public comment was received from a member of the general public expressing support to the Small House application;
- (e) the District Officer (North) advised that two Village Representatives (VRs) of Tai Tong Wu, the Chairman of Sha Tau Kok District Rural Committee and the concerned North District Council member were consulted on the application. While one of the VRs of Tai Tong Wu supported the application, the others had no comment on it; and
- (f) 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 application generally met the ‘Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories’ in that the footprint of the proposed Small House fell entirely within the village ‘environs’ of Tai Tong Wu Village and there was insufficient land within the “Village Type Development” zone of Tai Tong Wu Village to meet the Small House demand. Hence, sympathetic consideration could be given to the application. In this regard, the District Lands Officer/ North had no objection to the application. Although the proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone, the Director of Agriculture, Fisheries and Conservation had no strong view on the application as the site had been partly paved and surrounded by domestic structures and the potential for agricultural rehabilitation was low. Besides, the proposed Small House development was not incompatible with the surrounding areas which were predominantly characterised by village houses. Moreover, the proposed Small House development would not have significant adverse traffic, drainage, environmental and landscape impacts on the surrounding areas. Concerned government departments had no adverse comment on or no objection to the application. In addition,

four similar applications for Small House development within the same “AGR” zone in the vicinity of the application site had been approved with conditions by the Committee.

67. Members had no question on the application.

#### Deliberation Session

68. 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 6.5.2015, 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 submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;
- (b) the provision of fire-fighting access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (c) the submission and implementation of tree preservation and landscape proposals to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection and to resolve any land matter (such as private lots) associated with the provision of water supply and be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD’s standards. Besides, the site was located within flood pumping gathering ground;

- (b) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that the Consultants Management Division of DSD had carried out sewerage works in the vicinity of the application site under Contract No. DC/2002/08 (Northeast New Territories Village Sewerage Phase 2). The Environmental Protection Department should be consulted regarding the sewage treatment/disposal facilities for the proposed development; and
  
- (c) to note the comments of the Commissioner for Transport that according to the applicant, there was a vehicular access leading to the application site but the access was not under the Transport Department's management. The applicant should check the land status of the access with the lands authority, and clarify the management and maintenance responsibilities of the subject access with the relevant lands and maintenance authorities accordingly.

### **Agenda Items 23 and 24**

#### **Section 16 Applications**

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TKL/357      Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Lot 4 S.A in D.D. 46, Tai Tong Wu Village, Sha Tau Kok  
(RNTPC Paper No. A/NE-TKL/357 to 358)

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A/NE-TKL/358      Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Lot 4 RP in D.D. 46, Tai Tong Wu Village, Sha Tau Kok  
(RNTPC Paper No. A/NE-TKL/357 to 358)

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70.            The Secretary reported that Ms. Anna S.Y. Kwong had declared interests in these two items as she had business dealings with Ted Chan & Associates Limited, one of the consultants of the applications. As Ms. Kwong had no direct involvement in the subject

applications, the Committee agreed that she could stay in the meeting.

71. The Committee noted that the two applications were grouped together under one RNTPC Paper as they were for the same use and the sites were located next to each other within the same “Agriculture” (“AGR”) zone. The Committee agreed that the two applications could be considered together.

#### Presentation and Question Sessions

72. Ms. Doris S.Y. Ting, STP/STN, presented the applications and covered the following aspects as detailed in the Paper :

- (a) background to the applications;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small House) at each of the application site;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the applications;
- (d) during the statutory publication period, two public comments were received for each of the application. While one of the public comments supported the applications without providing any reason, the other comment from Designing Hong Kong Limited objected to the applications on the grounds that the proposed development was incompatible with the zoning intention and character of the area; a sustainable layout with quality design was not available for the area; and approval of further development without a sustainable layout would have adverse impacts on the living environment and the well being of residents and create health and social problems;
- (e) the District Officer (North) advised that the concerned North District Council member had no comment on the applications while the Chairman of Sha Tau Kok District Rural Committee and the Village Representatives of Tai Tong Wu did not express any comment during the local consultation

period; and

- (f) the Planning Department (PlanD)'s views – PlanD had no objection to the applications based on the assessments set out in paragraph 11 of the Paper which were summarised below :
  - (i) the proposed development complied with the 'Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories' in that the application sites and the footprints of the proposed Small Houses fell entirely within the village 'environs' of Tai Tong Wu Village and there was a general shortage of land in the "Village Type Development" zone of the same village to meet the demand for Small House development. Hence, sympathetic consideration could be given to the applications;
  - (ii) although the application sites fell entirely within the "AGR" zone and was not in line with the planning intention of the said zone, the Director of Agriculture, Fisheries and Conservation had no strong view against the applications as the sites were hard paved and surrounded by domestic structures and their potential for agricultural rehabilitation was low. The surrounding areas of the sites were dominated by village houses and the proposed Small Houses were considered not incompatible with the surrounding village setting. As such, the Chief Town Planner/Urban Design and Landscape had no objection to the applications from the landscape planning point of view;
  - (iii) a total of 12 similar applications within/partly within the same "AGR" zone in the vicinity of the application site were approved by the Committee between 2002 and 2010. There had been no change in the planning circumstances since the approval of these Small House applications; and
  - (iv) regarding the public comment against the proposed Small House development, relevant government departments including the Agriculture, Fisheries and Conservation Department, Environmental

Protection Department, Transport Department, Drainage Services Department, Water Supplies Department, Urban Design and Landscape Section of PlanD and Lands Department had no objection to or major adverse comments on the applications.

73. Members had no question on the applications.

#### Deliberation Session

74. After deliberation, the Committee decided to approve the applications, on the terms of the applications as submitted to the Town Planning Board (TPB). Each permission should be valid until 6.5.2015, 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. Each permission was subject to the following conditions :

- (a) the provision of fire-fighting access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (b) the submission and implementation of drainage proposals to the satisfaction of the Director of Drainage Services or of the TPB; and
- (c) the submission and implementation of landscape proposals to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the Commissioner for Transport that the vehicular access leading to the application site was not under the Transport Department's management and the applicant should check the land status of the access with the lands authority. The management and maintenance responsibilities of the vehicular access should also be clarified with the relevant lands and maintenance authorities accordingly;

- (b) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal application referred by the Lands Department; and
- (c) to note the comments of the Chief Engineer/Development(2), Water Supplies Department (WSD) that for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards. Besides, water mains in the vicinity of the application site could not provide the standard fire-fighting flow, and the application site was located within the flood pumping gathering ground.

## **Agenda Item 25**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/745                      Shop and Services (Retail Shop)  
   in "Industrial" zone,  
   Workshop G1 (Part), LG/F, Valiant Industrial Centre,  
   2-12 Au Pui Wan Street, Fo Tan, Sha Tin  
   (RNTPC Paper No. A/ST/745)

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### **Presentation and Question Sessions**

76.            Mr. Dennis C.C. Tsang, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the shop and services (retail shop);

- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Sha Tin); 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 shop and services (retail shop) under application was located on lower ground floor of an existing industrial building and was accessible from Au Pui Wan Street. The applied use was considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments. Similar applications for shop and services use had been approved for other units on the lower ground floor of the subject industrial building abutting Au Pui Wan Street and its vicinity. The application premises was small in scale (with a total floor area of about 29.7m<sup>2</sup>) and the aggregate commercial floor area on ground floor of the subject industrial building would not exceed the maximum permissible limit of 460m<sup>2</sup>. In this regard, the Director of Fire Services had no objection to the application subject to approval conditions on fire safety measures. The retail shop under application complied with the relevant considerations set out in the Town Planning Board Guidelines No. 25D including fire safety and traffic aspects. Relevant government departments including the Fire Services Department, Buildings Department and Transport Department had no objection to the application. Notwithstanding the above, a temporary approval of three years was recommended in order not to jeopardise the long-term planning intention of industrial use for the subject premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.

77. Members had no question on the application.

Deliberation Session

78. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.5.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission of fire safety measures within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 6.11.2011;
- (b) the implementation of fire safety measures within 9 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 6.2.2012; and
- (c) if any of the above planning conditions (a) or (b) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) prior planning permission should have been obtained before commencing the applied use at the application premises;
- (b) a temporary approval of three years was given in order to allow the Committee to monitor the compliance of the approval conditions and the supply and demand of industrial floor space in the area to ensure that the long-term planning intention of industrial use for the subject premises would not be jeopardized;
- (c) to apply to the District Lands Officer/Shu Tin for a temporary waiver to permit the applied use;
- (d) to note the comments of the Chief Building Surveyor/New Territories East (1) and Licensing Unit, Buildings Department that the proposed use

should comply with the requirements under the Buildings Ordinance. For instance, the shop should be separated from adjoining workshops by compartment walls, floors and lobbies having a fire resisting period of not less than two hours;

- (e) to note the comments of the Director of Fire Services that the retail area should be completely separated from the industrial portion and a means of escape completely separated from the industrial portion should be available. Detailed fire service requirements would be formulated upon receipt of formal submission of general building plans. Regarding matters in relation to means of escape and fire resisting construction for the application premises, the applicant should comply with the requirements as stipulated in the Code of Practice for the Provision of Means of Escape in Case of Fire and the Code of Practice for Fire Resisting Construction respectively which were administered by the Buildings Department; and
- (f) to refer to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises' for the information on the steps required to be followed in order to comply with the approval condition on the provision of fire service installations.

[The Chairman thanked Ms. Lisa L.S. Cheng, Ms. Doris S.Y. Ting and Mr. Dennis C.C. Tsang, STPs/STN, for their attendance to answer Members' enquires. They left the meeting at this point.]

### **Tuen Mun and Yuen Long District**

[Ms. S.H. Lam, Mr. K.C. Kan, Mr. Ernest C.M. Fung and Mr. Kepler S.Y. Yuen, Senior Town Planners/Tuen Mun and Yuen Long (STPs/TMYL), were invited to the meeting at this point.]

**Agenda Item 26**

[Open Meeting]

Proposed Amendments to the Draft Yuen Long Outline Zoning Plan No. S/YL/19

(RNTPC Paper No. 6/11)

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80. With the aid of a Powerpoint presentation, Ms. S.H. Lam, STP/TMYL, presented the proposed amendments to the Yuen Long Outline Zoning Plan (OZP) as detailed in the Paper and covered the following main points :

- (a) on 18.3.2011, the draft Yuen Long OZP No. S/YL/19, incorporating amendments mainly to rezone parts of the Tung Tau Industrial Area in Yuen Long from “Other Specified Uses” annotated “Business” (“OU(B)”) and “OU(B)1” to “Residential (Group E)1” (“R(E)1”), was exhibited for public inspection under section 5 of the Town Planning Ordinance;
- (b) the “R(E)1” zoning covered two sites in Tung Tau, including Yuen Long Town Lot 458 which had been included in the 2011-12 Application List. Noting the Director of Environmental Protection’s concerns on the possible adverse environmental impacts of the two temporary bus depots in the vicinity of the “R(E)1” sites, it was stated in paragraph 9.4.2 of the Explanatory Statement (ES) of the OZP that “*Development/redevelopment for residential use shall be implemented only after the relocation of the two existing temporary bus depots located at Tak Yip Street and Wang Yip Street West*”. However, such a requirement could be over restrictive to the future developers of the proposed residential developments on the “R(E)1” sites as relocation of the bus depots was not their responsibility and it would be beyond their control. The bus depots were currently under Short Term Tenancy (STT) renewable on a quarterly basis. The Government planned to terminate the STTs before the occupation of the future residential developments within the “R(E)1” zone;
- (c) the proposed amendments to the OZP, as detailed in paragraph 5.1 and Attachment II of the Paper, were summarised as follows:

- (i) Amendment Item A – rezoning of Yuen Long Main Road Rest Garden (about 1 405m<sup>2</sup>) from “Government, Institution or Community” (“G/IC”) to “Open Space” (“O”);
  - (ii) Amendment Item B – rezoning of a small strip of land (about 375m<sup>2</sup>) at the northern edge of Yuen Long Main Road Rest Garden, which covered part of a footpath and the ramp of a footbridge, from “G/IC” to ‘Road’ to reflect the as-built situation;
  - (iii) Amendment Items C1 and C2 – rezoning of three sites covering Ping Wui Street Rest Garden from “G/IC” (about 1 724m<sup>2</sup>) or “Residential (Group A)” (“R(A)”) (about 234m<sup>2</sup>) to “O” to reflect the existing use; and
  - (iv) Amendment Item D – rezoning of a strip of land (about 322m<sup>2</sup>) adjoining the northern portion of Ping Wui Street Rest Garden, which covered part of a road and footpath, from “R(A)” to ‘Road’ to reflect the as-built situation;
- (d) as detailed in paragraph 5.2 and Attachment III of the Paper, paragraph 9.4.2 of the ES of the OZP was proposed to be revised by deleting the third sentence as stated above to avoid misunderstanding that the future developers of the “R(E)1” sites would need to relocate the bus depots. Opportunity was also taken to revise the ES to take into account the proposed amendments and reflect the latest status and planning circumstances of the OZP; and
- (e) the comments of relevant government bureaux/departments had been incorporated into the proposed amendments where appropriate. Depending on their meeting schedule, the Yuen Long District Council and Shap Pat Heung and Ping Shan Rural Committees would be consulted on the amendments before or during the exhibition period of the draft Yuen Long OZP No. S/YL/19A (to be renumbered as S/YL/20 upon exhibition) for public inspection under section 7 of the Town Planning Ordinance.

81. After deliberation, the Committee decided to :
- (a) agree to the proposed amendments to the draft Yuen Long Outline Zoning Plan (OZP) No. S/YL/19 and that Amendment Plan No. S/YL/19A at Attachment II (to be renumbered as S/YL/20 upon exhibition) and its Notes at Attachment III of the Paper were suitable for exhibition for public inspection under section 7 of the Town Planning Ordinance;
  - (b) adopt the revised Explanatory Statement (ES) at Attachment IV of the Paper as an expression of the planning intentions and objectives of the Town Planning Board (the Board) for the various land use zonings of the OZP and to be issued under the name of the Board; and
  - (c) agree that the revised ES was suitable for exhibition together with the OZP and its Notes.

### **Agenda Item 27**

#### **Section 16A Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/263-1      Application for Extension of Time for Commencement of the Approved Residential Development (Flats and Houses) under Application No. A/YL-PS/263 for a Period of 4 Years until 27.7.2015 in “Residential (Group E)2” zone,  
Lots 621 S.A RP, 621 S.A ss2, 621 S.B ss2, 621 S.B RP, 623 RP, 624, 626 RP and 631 in D.D. 122, Yung Yuen Road, Ping Shan, Yuen Long (RNTPC Paper No. A/YL-PS/263-1)

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#### **Presentation and Question Sessions**

82. Ms. S.H. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) application for extension of time (EOT) for commencement of the approved residential development (flats and houses) under Application No. A/YL-PS/263 for a period of four years until 27.7.2015. The original permission was granted on 27.7.2007 which would be valid until 27.7.2011;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) the District Officer (Yuen Long) advised that the previous local objection dated 17.4.2007 to Application No. A/YL-PS/263 still stood. The objection was submitted by the village representatives of the three walled villages and six villages of Ping Shan Heung on the grounds that the proposed development would affect the setting of fung shui for Ping Shan and the permitted burial ground at Pak Fa Shan and damage the dragon veins of the villages; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 8 of the Paper. The EOT application was in line with the Town Planning Board (TPB) Guidelines No. 35B in that there had been no material change in the planning circumstances in relation to the land use zoning and development restrictions of the site since the granting of planning permission on 27.7.2007 under Application No. A/YL-PS/263; and that the commencement of development was delayed because there was no public sewer for connection to the site which was beyond the control of the applicant. Moreover, the applicant had made efforts for the implementation of the approved development and compliance of the approval conditions by submitting the proposals relating to environmental mitigation measures and car parking facilities. This was the first EOT application and the proposed extension period of four years (same as the original duration for commencement of the approved development proposal)

was considered not unreasonable. However, since TPB Guidelines No. 35B stated that 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, the applicant would be advised that any further extension of the validity of this permission would be outside the scope of Class B amendments as specified by the TPB. Regarding the local concerns on fung shui issue, it had been considered by the TPB in granting the planning permission on 27.7.2007. Whilst the development would not encroach on the permitted burial ground at Pak Fa Shan, in order to ease the local villagers' concern, an advisory clause requesting the applicant to liaise with the local villagers on their concerns was recommended. There had been no change in the planning circumstances since the last approval. Besides, the applicant indicated that he had made effort to liaise with the local representatives and would address their concerns at the detailed design stage.

83. Members had no question on the application.

#### Deliberation Session

84. 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 27.7.2015, 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 submission and implementation of landscape proposal including a tree preservation and compensatory planting scheme for the proposed development to the satisfaction of the Director of Planning or of the TPB;
- (b) the design and provision of environmental mitigation measures to the satisfaction of the Director of Environmental Protection or of the TPB;
- (c) the submission and implementation of drainage proposal for the proposed

development to the satisfaction of the Director of Drainage Services or of the TPB;

- (d) the design and provision of car parking facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the TPB;
- (e) the design and provision of the road improvement works including the access road and footway, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;
- (f) the provision of emergency vehicular access, water supplies for fire-fighting and fire service installations for the proposed development to the satisfaction of the Director of Fire Services or of the TPB; and
- (g) the submission of a detailed archaeological investigation and implementation of mitigation measures identified therein before commencement of construction works to the satisfaction of the Director of Leisure and Cultural Services or of the TPB.

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

- (a) any further extension of the validity of this permission would be outside the scope of Class B amendments as specified by the TPB. If the applicant wished to seek any further extension of time for commencement of the development, the applicant might submit a fresh application under section 16 of the Town Planning Ordinance. The TPB Guidelines No. 35B and 36A should be referred to for details;
- (b) to note the comments of the District Lands Officer/Yuen Long that application should be made to seek separate permission for a land exchange before any development could commence. There was no guarantee that the application for a land exchange would be approved. If such application was approved, it would be subject to such terms and conditions,

including the payment of premium and administrative fee, as might be imposed by the Lands Department;

- (c) the land status, management and maintenance responsibilities of the road/path/track leading to the site should be checked and clarified;
- (d) the proposed road improvement works identified in the Traffic Impact Assessment Report should be completed prior to the application of occupation permit, and the provision of emergency vehicular access (EVA) to every building at the site was required under Building (Planning) Regulations 41D;
- (e) the archaeological investigation should be conducted by a qualified archaeologist who should obtain a licence from the Antiquity Authority under the Antiquities and Monuments Ordinance (Cap. 53);
- (f) the future residents of the proposed development should be informed of the purpose of the single aspect building design in the sales brochure such that the residents were well aware of the noise mitigation measures adopted;
- (g) the arrangement of EVA should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue which was administered by the Buildings Department;
- (h) the proposed stormwater drain constructed by the applicant from Yung Yuen Road to existing drains at Long Tin Road would be of diameter 1050mm but the public drain at Long Tin Road was only 900mm in diameter. The Drainage Services Department (DSD) would not take over the proposed drainage system at Yung Yuen Road if the system was not up to DSD's standard or if any part of the proposed drainage system was within private land; and
- (i) the applicant should liaise with the local villagers on the concerns raised in relation to the proposed development.

[The Chairman thanked Ms. S.H. Lam, STP/TMYL, for her attendance to answer Members' enquires. Ms. Lam left the meeting at this point.]

**Agenda Item 28**

**Section 16 Application**

[Open Meeting]

A/TM/415                      Proposed Columbarium Use  
in "Government, Institution or Community" zone,  
Lot 667 in D.D. 131, Yeung Tsing Road, Tuen Mun  
(RNTPC Paper No. A/TM/415)

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86.            The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had business dealings with Environ Hong Kong Limited, one of the consultants of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

87.            The Committee noted that on 15.4.2011, the applicant requested for a deferment of the consideration of the application for one month in order to allow time for the applicant to address the departmental comments on the application.

88.            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. The Committee also agreed to advise the applicant that one month was allowed for preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 29**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TM-LTY Y/213 Proposed Temporary Private Car and Light Goods Vehicle Park  
for a Period of 2 Years in “Green Belt” zone,  
Lot 860 RP (Part) in D.D. 130, To Tuen Wai, Tuen Mun  
(RNTPC Paper No. A/TM-LTY Y/213)

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**Presentation and Question Sessions**

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

- (a) background to the application;
- (b) the proposed temporary private car and light goods vehicle park for a period of two years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, eight public comments were received. Three of them supported the application whereas the other five commenters objected to the application. The public comments were summarised below:
  - (i) a Tuen Mun District Council member and the Tuen Mun Rural Committee supported the application without giving any reason;
  - (ii) the To Yuen Wai Rural Committee supported the application on the grounds that parking facilities in To Yuen Wai area were inadequate resulting in on-street parking and affecting the traffic within the village. The landowner of the site was willing to allow the use of his land for vehicle parking by To Yuen Wai villagers;

- (iii) the Owners' Committee of The Sherwood objected to the application as the roads nearby (such as Castle Peak Road) were heavily trafficked and using the site for vehicle parking would increase the risk of traffic accidents;
  - (iv) Designing Hong Kong Limited objected to the application mainly on the grounds that the site was zoned "Green Belt" ("GB") and the proposed use would cause environmental blight. Adequate parking facilities and similar land uses already existed in the area. Over-provision of parking facilities would encourage the use of private cars, which was against the transport policies;
  - (v) a villager of To Yuen Wai objected to the application and stated that the site was originally a green area grown with plenty of trees, but it was now land-filled without any greenery. The site was accessed by a single two-way road with no lay-by and the road was used by many pedestrians and cyclists. The proposed vehicle park would cause heavy traffic (especially goods vehicles) on this busy road leading to traffic accidents. There were many vehicle parks in the vicinity of To Yuen Wai and the proposed one was not necessary; and
  - (vi) two individuals objected to the application on the grounds that the proposed development would have had adverse noise and air impacts on the residents nearby, the area was green, and there were elderly pedestrians; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper which were summarised below:
- (i) the site fell within the "GB" zone which provided a buffer between Yuen Long Highway and residential developments to its north. There was a general presumption against development within the "GB" zone;

- (ii) the temporary use did not fulfill the criteria of Town Planning Board (TPB) Guidelines No. 10 in that there was a general presumption against development (other than redevelopment) whereas the proposed development was a new development, not a redevelopment. As such, it should not be given favourable consideration. The applicant had not provided strong planning justification to justify a departure from the planning intention, even on a temporary basis. There were no exceptional planning circumstances that warranted the approval of the application. Due to the presumption against development, the applicant should address any potential adverse impacts in the submission, including landscape, drainage and environmental impacts. However, the applicant had not provided any information on these aspects. In particular, as the site was located very close to existing houses to its west, the proposed development might have adverse environmental impacts on these houses. The applicant had not provided any layout to show the parking arrangement or any proposal to address the potential adverse environmental impacts;
- (iii) while the proposed development was not open storage or port back-up uses, the site fell within Category 4 areas as defined under the TPB Guidelines No. 13E in which open storage and port back-up uses were encouraged to be phased out. The designation of the area as Category 4 areas was consistent with the planning intention of “GB” zone and helped to protect the area from encroachment of development;
- (iv) the north-western part of the site encroached on a garden area of an existing village house and the site boundary fronted the main entrance of that house. Such an encroachment might either block the entrance of the house or result in conflict between the residents’ entering and leaving the house and the vehicular traffic within the proposed vehicle park, which were undesirable. The applicant had not provided any information on preventing or addressing the situation; and

- (v) all similar applications within the nearby “GB” zone were rejected except Application No. A/TM-LTY Y/160, which was not entirely the same as the current application in that the “GB” portion of Application No. A/TM-LTY Y/160 was about 143m<sup>2</sup> and two private cars of the applicant (who was also the landowner) would be parked there. The scale of parking was smaller than that of the current application. The major concern of Application No. A/TM-LTY Y/160 was related to the storage use within the “Residential (Group D)” portion of the application site. In addition, Application No. A/TM-LTY Y/160 did not involve encroachment on nearby developments. The Committee had not approved any vehicle park in the “GB” zone concerned. Approval of the application was not in line with the previous decisions of the Committee.

90. Members had no question on the application.

#### Deliberation Session

91. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zone. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis;
- (b) the proposed development was not in line with the Town Planning Board Guidelines No. 10 on ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ as there was no information in the submission to demonstrate that the potential environmental, landscape and drainage impacts on the surrounding areas generated by the proposed development could be adequately addressed;

- (c) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area; and
- (d) the encroachment of the application site onto the garden of an existing village house up to the main entrance of that house was considered undesirable. The applicant failed to demonstrate that such encroachment would not result in blockage of the residents’ access to the house or conflict between residents entering and leaving the house and the vehicular traffic within the proposed vehicle park.

**Agenda Item 30**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-ST/402            Renewal of Planning Approval for Temporary  
                                 ‘Public Vehicle Park (Excluding Container Vehicle)’ Use under  
                                 Application No. A/YL-ST/368 for a Period of 2 Years  
                                 in “Village Type Development” zone,  
                                 Lots 3071 S.A, 3071 RP, 3073, 3077 S.A, 3077 S.B, 3077 S.C,  
                                 3077 S.D, 3077 S.E, 3077 S.F, 3077 S.G and 3077 RP in D.D. 102  
                                 and Adjoining Government Land, San Tin, Yuen Long  
                                 (RNTPC Paper No. A/YL-ST/402)

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92.            The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had business dealings with Lanbase Surveyors Limited, the consultant of the application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

**Presentation and Question Sessions**

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

- (a) background to the application;
- (b) the renewal of planning approval for temporary ‘public vehicle park (excluding container vehicle)’ use under Application No. A/YL-ST/368, which would be valid until 19.6.2011, for a period of two years;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, a public comment was received from Designing Hong Kong Limited raising objection to the application on the grounds that the proposed use at the site was not suitable as the site was within the Wetland Buffer Area (WBA) and fell within Category 4 areas under the Town Planning Board (TPB) Guidelines No. 13E. Adequate parking facilities and similar land uses already existed in the area. Over-provision of parking facilities would encourage the use of private cars which was against the transport policies; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use under the application could be tolerated for a further period of two years based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) the renewal application was in line with TPB Guidelines No. 34B in that there had been no major change in the planning circumstances since the last approval; government departments had no adverse comment on the application and there had been no environmental complaint against the site from 2008 to January 2011; all the approval conditions under the previous approval had been complied with; the two-year approval period sought was the same as in the previous application; and the District Lands Officer/Yuen Long

advised that six Small House applications at the northern part of the site were still under processing and approving the application for two years would not jeopardize the Small House developments on the site, and the Small House applicants of Lots 3071 S.A, 3071 RP and 3073 in D.D. 102 also indicated that the construction of approved Small Houses would not commence in the coming two years. Temporary use of the site for public vehicle park for another two years would not jeopardize the planning intention of the “Village Type Development” zone for Small House development;

- (ii) the public vehicle park on-site which did not involve heavy vehicles was considered not incompatible with the surrounding land uses, comprised mainly vehicle parks and vehicle repair workshop;
- (iii) although the site fell within the WBA of the TPB Guidelines No. 12B, the guidelines also specified that planning applications for temporary uses were exempted from the requirement of ecological impact assessment. The Director of Agriculture, Fisheries and Conservation had no comment on the application noting that the site was located within “V” zone, and the application was for continuation of the previous approved temporary use at the site. The nearest fish pond was about 333m to the west of the site and in-between were the developed areas of Wing Ping Tsuen and On Lung Tsuen. Significant negative off-site disturbance impact on the ecological value of fish ponds was not envisaged;
- (iv) according to the TPB Guidelines No. 13E, suitable sites in San Tin area might be considered for cross-boundary parking facilities based on individual merits. The site was located at about 455m from the cross-boundary bus terminus in San Tin and about 963m from the Lok Ma Chau Control Point. Apart from meeting some parking demand of local villagers/residents, the applied use could satisfy some of the parking demand for cross-boundary travellers. Adverse environmental, traffic and infrastructural impacts on the surrounding areas were not anticipated. Therefore, the application

was in line with the TPB Guidelines No. 13E;

- (v) as there were village houses located in close proximity to the site, approval conditions restricting the types of vehicles and activities on-site and requiring maintenance of paving and boundary fencing were recommended to mitigate potential environmental nuisance to nearby residents; and
- (vi) regarding the public comment against the application, concerned government departments (including the Environmental Protection Department and Transport Department) had no adverse comment or objection to the application. Relevant approval conditions prohibiting medium or heavy goods vehicles and car washing, repairing or workshop activities and requiring the maintenance of paving and fencing on the site had been recommended. On the parking space provision and traffic demand management aspects, the Transport Department had advised that the traffic impact in the vicinity was negligible.

94. Members had no question on the application.

#### Deliberation Session

95. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 2 years from 20.6.2011 to 19.6.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no vehicle without valid licence issued under the Road Traffic Ordinance was allowed to be parked/stored on the site at any time during the planning approval period;
- (b) no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailer/tractor as defined in the Road Traffic Ordinance was allowed to be parked/stored on the site at any time during the planning

approval period;

- (c) a notice should be posted at a prominent location of the site to indicate that no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailers/tractors as defined in the Road Traffic Ordinance was allowed to be parked/stored on the site at any time during the planning approval period;
- (d) no car washing, vehicle repair, dismantling, paint spraying or other workshop activities were allowed on the site at any time during the planning approval period;
- (e) the paving and boundary fencing on the site should be maintained at all times during the planning approval period;
- (f) the landscape planting on the site should be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (h) the submission of an as-built drainage plan and photographic records of the existing drainage facilities within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 19.12.2011;
- (i) the submission of fire service installations proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.12.2011;
- (j) in relation to (i) above, the provision of fire service installations within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.3.2012;

- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (l) if any of the above planning conditions (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (m) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to resolve any land issue relating to the development with the concerned owner(s) of the application site;
- (b) to note the comments of the District Lands Officer/Yuen Long that the application site comprised Old Schedule agricultural lots held under the Block Government Lease. No structures were allowed to be erected within the site without prior approval of the Government and no approval had been given to the two structures on site used as container site offices. Government land (GL) of about 308m<sup>2</sup> had been included in the application site for which no permission had been given for its occupation by his office. Enforcement action would be taken against the unauthorized occupation of GL. While the site was accessible from Castle Peak Road (San Tin Section) via an informal track on GL, his office did not provide maintenance works for this track or guarantee right-of-way. The lot owner and the occupier should apply to his office to permit any structure to be erected or regularize any irregularities on-site, and for the occupation of GL concerned respectively. If such application was approved, it would be subject to such terms and conditions, including the payment of premium or

fee, as might be imposed by the Lands Department;

- (c) to note the comments of the Commissioner for Transport that the application site was connected to an unknown local access road which was not managed by the Transport Department. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize potential environmental impacts on the surrounding areas;
- (e) to note the comments of the Drainage Services Department as detailed in Appendix V of the Paper;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the granting of planning approval should not be construed as condoning to any unauthorized structures on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the BO or other enactment might be taken if contravention was found. Containers used as offices were considered as temporary buildings and subject to control under Building (Planning) Regulations (B(P)R) Part VII. Formal submission of any proposed new works, including temporary structure, for approval under the BO was required. If the site did not abut on a specified street having a width not less than 4.5m, the development intensity should be determined under B(P)R 19(3) at the building plan submission stage. An emergency vehicular access should also be provided to comply with B(P)R 41D;
- (g) to note the comments of the Director of Fire Services that relevant layout plans incorporated with the proposed fire service installations (FSI) should

be submitted to his department for approval. In formulating the FSI proposal, for other open storages, open sheds or enclosed structure with total floor area less than 230m<sup>2</sup> with access for emergency vehicles to reach 30m travel distance to structures, portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSI to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSI, justifications should be provided to his department for consideration; and

- (h) to note the comments of the Director of Electrical and Mechanical Services that if there was underground cable (and/or overhead line) within or in the vicinity of the site, the applicant should carry out the measures as detailed in Appendix VI of the Paper.

[Mr. Rock C.N. Chen left the meeting at this point.]

### **Agenda Item 31**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-ST/403            Proposed Temporary Shop and Services  
(Second-Hand Private Car Sales) for a Period of 3 Years  
in “Conservation Area” and “Other Specified Uses” annotated  
“Comprehensive Development and Wetland Enhancement Area” zones,  
Lots 733 RP (Part) and 748 RP (Part) in D.D. 99 and  
Adjoining Government Land, San Tin, Yuen Long  
(RNTPC Paper No. A/YL-ST/403)

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97.            The Secretary reported that Ms. Anna S.Y. Kwong had declared an interest in this item as she had business dealings with Lanbase Surveyors Limited, the consultant of the

application. As Ms. Kwong had no direct involvement in the subject application, the Committee agreed that she could stay in the meeting.

#### Presentation and Question Sessions

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

- (a) background to the application;
- (b) the proposed temporary shop and services (second-hand private car sales) for a period of three years;
- (c) the departmental comments were detailed in paragraph 10 of the Paper and highlighted below:
  - (i) the Commissioner of Police (C of P) had some concerns about the adverse traffic impact generated by the development. It was noted that the road outside the site (i.e. Tun Yu Road which was a one-lane two-way road) was the only access road used for emergency maintenance service for the drainage system leading to Shenzhen River. The operation at the site would create a burden on the traffic on this section of the road. The application should not be approved until a smooth traffic flow could be maintained and the efficiency of drainage maintenance service along the road could be ensured;
  - (ii) the Director of Environmental Protection (DEP) did not support the application as the site was located in an environmentally sensitive area, approval of the application would set an undesirable precedent which would gradually erode the ecological habitat at San Tin. Moreover, part of the application site fell within the “Conservation Area” (“CA”) zone. According to the Environmental Impact Assessment Ordinance, it was a designated project for which an environmental permit was required for its construction and operation;

- (iii) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application. The site was zoned “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” (“OU(CDWEA)”) and “CA”. The “OU(CDWEA)” zone was intended for the conservation and enhancement of ecological value and functions of existing fish ponds or wetland through consideration of application for development or redevelopment under the ‘private-public partnership approach’. The “CA” zone was intended for the conservation of the ecological value of wetland and fish ponds which formed an integral part of the wetland ecosystem in the Deep Bay Area. The proposed use did not comply with the planning intentions of the concerned zonings. Moreover, the site fell within the Wetland Conservation Area (WCA) and was in close proximity to the contiguous fish ponds to the west. However, there was no information in the submission to demonstrate that the proposed use of the site would not have negative off-site disturbance impacts on the ecological values of the fish ponds in the WCA;
- (iv) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape planning perspective. During the site inspection on 30.3.2011, it was observed that the site was formed and there were existing fish ponds to the west of the site. The existing ponds contributed as valuable landscape resources not only in the vicinity but also in the territory. There was no landscape resource within the application boundary. The nature of the proposed development was not in line with the planning intention of “CA” zone which was primarily to discourage new development unless it was required to support the conservation of ecological value of the area or the development was an essential infrastructural project with overriding public interest. The existing vehicle park had already affected the landscape character of the environment and no landscape proposal was submitted to mitigate the potential adverse landscape impact

caused by the development; and

- (v) the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) had reservation on the application. The site abutted on an existing stream course, which had a low flood protection level. In addition, the vicinity of the site was in a low-lying area. The development might further aggravate the flooding severity to the area during wet seasons;

[Mr. B.W. Chan left the meeting at this point.]

- (d) during the statutory publication period, three public comments were received. One of them was from a Yuen Long District Council member, which stated that the applicant should obtain the current landowners' consent. Another public comment from Designing Hong Kong Limited objected to the application on the grounds that the site fell within the WCA but comprehensive ecological assessment and compensation scheme were not included; and any temporary uses within the area should comply with the TPB Guidelines No. 12B. The remaining public comment was submitted by a law firm which represented two landowners. This commenter acted for a Manager of Man Sham Chung Wui who was the registered owners of Lot 733RP in D.D. 99 and a Manager of Man Un (or Yun) Uk Wai who was the registered owner of Lot 748RP in D.D. 99. The owners of the lots objected to the application mainly on the grounds that the applicant had never sought their approval for using the concerned lots for second-hand private car sales; the proposed development would adversely affect the existing landscape, visual, drainage, ecology and environment of the site; it would cause serious traffic problems on Tun Yu Road and create pressure on the existing traffic flow along San Tin Tsuen Road; the proposed development was not compatible with the zonings of the site; and the Government had the obligation to ensure the wetland and conservation area not to be infringed by buildings and commercial work; and

- (e) the PlanD's views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper which were summarised below:
- (i) the site mainly fell within the “CA” zone which aligned the Eastern Main Drainage Channel. The zoning was meant for the protection of an area of ecological importance as a foraging site for birds. Although the proposed development was temporary in nature, unless it could be clearly demonstrated that the ecological value of the “CA” zone was not affected, the proposed development would contravene the planning intention of the “CA” zone, even on a temporary basis;
  - (ii) a smaller portion of the site fell within the “OU(CDWEA)” zone, of which the planning intention was for conservation and enhancement of the ecological value and functions of existing fish ponds or wetland through consideration of application for development or redevelopment under the ‘private-public partnership approach’. Although the proposed development did not encroach on the fish ponds, approval of the application could to some extent jeopardize the realization of the comprehensive development intended for the zone;
  - (iii) according to the TPB Guidelines No. 12B, the site fell within the WCA of which the intention was to conserve the ecological value of fish ponds which formed an integral part of the wetland ecosystem in the Deep Bay Area. Any development within the WCA, even on a temporary basis, required planning permission from the TPB and should be supported by an ecological impact assessment to demonstrate that the development would not result in a net loss in wetland function and negative disturbance impacts. The proposed development did not fulfill the relevant assessment criteria of the TPB Guidelines in that it was not considered as a use for conserving the ecological value of the fish ponds; there was no ecological impact assessment submitted by the applicant; and the proposed use

was not related to uses for conservation, environmental education or essential infrastructure projects needed for public purposes. In fact, the nearest fish pond within the adjoining WCA was only about 28m to the west of the site. In this regard, the DAFC did not support the application as there was no information to demonstrate that the proposed development would not have negative disturbance impacts on the ecological value of the fish ponds within the WCA;

- (iv) DEP did not support the application as the site was an environmentally sensitive area. Approval of the application would set an undesirable precedent which would gradually erode the ecological habitat in San Tin. However, the applicant had not submitted any information to demonstrate the environmental acceptability of the proposed development;
- (v) the site abutted on an existing stream course which had a low flood protection level, and the vicinity of the site was in low-lying area. In this regard, DSD had reservation on the application as the proposed development might further aggravate the flooding severity to the area during wet season. No information had been provided by the applicant to address this issue;
- (vi) CTP/UD&L objected to the application as the existing vehicle park had already affected the landscape character of the environment and there was no landscape proposal in the submission to mitigate the potential landscape impact of the proposed development;
- (vii) the only vehicular access to the site was via Tun Yu Road, which was a one-lane two-way road. The road was also used for emergency maintenance service for the drainage system leading to Shenzhen River. C of P had concern about the adverse traffic impact generated by the proposed development. C for T also advised that although the proposed development would not generate significant traffic flow, the existing road was a single-track access road and its traffic capacity was already saturated. Hence, the increase in traffic flow on this road was not desirable; and

- (viii) there was no similar application approved by the TPB/Committee within the same “CA” and “OU(CDWEA)” zones. Approval of the application would set an undesirable precedent which would cause negative disturbance impacts on the ecological value of the fish ponds in the WCA and degrade the existing environment of the area.

99. A Member did not support the application in view of the extensive area of the application site and the adverse ecological impact of the proposed use on the fishponds nearby. This Member, referred to Plan A-2 of the Paper, pointed out that there was an existing car painting workshop within the site and was concerned about its adverse impact in such an ecological sensitive area. In response, Mr. K.C. Kan said that the site was currently used for car beauty service without valid planning permission. The site was the subject of an enforcement case for unauthorized development (UD) involving workshop, storage and retail uses. Enforcement Notice was issued on 18.2.2011 to the concerned parties requiring discontinuation of the UD. The site inspection conducted in April 2011 revealed that the UD had not been discontinued. The site condition was being monitored and the UD would be subject to prosecution action.

100. Mr. Ambrose S.Y. Cheong of the Transport Department (TD) clarified that the concern on traffic capacity saturation was only at the junction of Tun Yu Road and Castle Peak Road, instead of on the local access road.

#### Deliberation Session

101. In response to the Chairman’s question, Mr. Ambrose Cheong advised that TD had reservation on the application in view of the potential adverse traffic impact of the applied use at the junction of Tun Yu Road and Castle Peak Road. He had no strong view on the rejection reason in paragraph 13.1(d) of the Paper which stated that the proposed development would have adverse traffic impact on the surrounding areas.

102. After further deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed development was not in line with the planning intention of the “Conservation Area” zone which was to conserve the ecological value of wetland and fish ponds which formed an integral part of the wetland ecosystem in the Deep Bay Area. Approval of the application, even on a temporary basis, would compromise this planning intention;
- (b) the proposed development was also not in line with the planning intention of the “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” zone which was for conservation and enhancement of ecological value and functions of the existing fish ponds or wetland through consideration of application for development or redevelopment under the ‘private-public partnership approach’. Approval of the application, even on a temporary basis, would compromise the realization of the comprehensive development intended for the zone;
- (c) the proposed development, which fell within the Wetland Conservation Area (WCA), did not comply with the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12B) in that it was contrary to the intention of WCA to conserve the ecological value of the fish ponds which formed an integral part of the wetland ecosystem in the Deep Bay Area, and there was no ecological impact assessment in the submission to demonstrate that the proposed development would not result in negative disturbance impact on the ecological value of the fish ponds nearby;
- (d) the applicant failed to demonstrate that the proposed development would not have adverse traffic, drainage, environmental and landscape impacts on the surrounding areas; and
- (e) the approval of the application would set an undesirable precedent which would cause cumulative negative disturbance impacts on the ecological value of the fish ponds in the WCA and would degrade the existing environment of the area.

[The Chairman thanked Mr. K.C. Kan, STP/TMYL, for his attendance to answer Members' enquires. Mr. Kan left the meeting at this point.]

**Agenda Item 32**

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/718            Temporary Vehicle Park for Private Cars and Light Goods Vehicles for a Period of 3 Years in "Village Type Development" zone, Lots 1709 S.A ss6 (Part), 1709 S.A ss7 (Part), 1709 S.A RP (Part), 1709 S.B ss5 (Part) and 1713 RP (Part) in D.D. 125 and Adjoining Government Land, Ha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-HT/718)

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Presentation and Question Sessions

103.            Mr. Ernest C.M. Fung, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary vehicle park for private cars and light goods vehicles for a period of three years;
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application from the landscape perspective as the applied use was incompatible with the landscape character of the low-rise residential dwellings adjoining the site;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and

- (e) the PlanD's views – PlanD considered that the temporary use under the application could be tolerated for a period of three years based on the assessments set out in paragraph 11 of the Paper which were summarised below:
- (i) the public vehicle park could serve the needs of residents in nearby villages, namely Sha Chau Lei, San Uk Tsuen and Ha Tsuen Shi, and was considered not in conflict with the planning intention of “Village Type Development” (“V”) zone. No heavy vehicles were involved and the site was relatively small (about 372m<sup>2</sup>). It was not incompatible with the surrounding residential neighbourhood. Besides, the District Lands Officer/Yuen Long advised that as there was no small house application on the site, approval of the application on a temporary basis would not frustrate the planning intention of the “V” zone;
  - (ii) the Director of Environmental Protection had no objection to the application and there had not been any environmental complaint against the site over the past three years. However, to mitigate any potential environmental nuisance, approval conditions prohibiting night-time operation and repairing and workshop activities, and restricting the types of vehicles to be parked had been recommended;
  - (iii) the technical concerns raised by government departments on drainage, fire safety, run-in/out provision and landscape aspects could also be addressed by imposing relevant approval conditions; and
  - (iv) the Committee had approved the previous application No. A/YL-HT/677. Since granting the previous approval, there had been no material change in the planning circumstances. Although the previous application was revoked due to non-compliance with approval conditions, the applicant had submitted a landscape plan, a drainage plan and a schematic layout plan showing the proposed fire

service installations under the current application. Since the applicant had shown his willingness to comply with the requirements, sympathetic consideration could be given. However, shorter compliance periods were recommended to monitor the compliance of the approval conditions. The applicant would also be advised that should he fail to comply with the approval condition(s) resulting in the revocation of planning permission, sympathetic consideration might not be given to any further application.

104. Members had no question on the application.

#### Deliberation Session

105. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.5.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation (i.e. no vehicular movement in/out/within the site) between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no vehicle without valid licence issued under the Road Traffic Ordinance was allowed to be parked/stored on the site during the planning approval period;
- (c) no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailers/tractors as defined in the Road Traffic Ordinance was allowed to be parked/stored on the site during the planning approval period;
- (d) a notice should be posted at a prominent location of the site to indicate that no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailers/tractors as defined in the Road Traffic Ordinance was allowed to be parked/stored on the site at any time during the planning

approval period;

- (e) no cutting, dismantling, cleansing, repairing, vehicle repair and workshop activities were allowed on the site during the planning approval period;
- (f) the submission of a drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.8.2011;
- (g) in relation to (f) above, the implementation of the drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.11.2011;
- (h) the submission of fire service installations proposals within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.8.2011;
- (i) in relation to (h) above, the implementation of the fire service installations proposals within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.11.2011;
- (j) the submission of a run-in/out proposal within 3 months from the date of planning approval to the satisfaction of the Director of Highways or of the TPB by 6.8.2011;
- (k) in relation to (j) above, the implementation of the run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the TPB by 6.11.2011;
- (l) the submission of a landscape proposal within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.8.2011;
- (m) in relation to (l) above, implementation of the landscape proposal within

6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.11.2011;

- (n) the removal of two converted containers along the south-western boundary of the site, as proposed by the applicant, within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.8.2011;
- (o) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (p) if any of the above planning conditions (f), (g), (h), (i), (j), (k), (l), (m) or (n) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (q) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) prior planning permission should have been obtained before continuing the development on the site;
- (b) shorter compliance periods were granted in order to monitor the compliance of approval conditions. No favourable consideration to further planning application might be given if the current permission was again revoked for non-compliance with the approval conditions within the specified time;
- (c) to resolve any land issue relating to the development with the concerned

owner(s) of the application site;

- (d) to note the comments of the District Lands Officer/Yuen Long that the application site comprised Old Schedule agricultural lots held under the Block Government Lease. No structure was allowed to be erected without prior approval of the Government. He would proceed with the processing of the Short Term Waiver application received from the landowner to regularize the structures on the lot. If such application was approved, it would be subject to such terms and conditions, including the payment of premium/fees, as might be imposed by Lands Department. He did not provide maintenance works for or guarantee right-of-way of the site's access via a short stretch of government land to Tin Ha Road;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance;
- (f) to note the comments of the Commissioner for Transport that the land status of the road/path/track leading to the site from a public road should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (g) to note the comments of the Chief Highway Engineer/New Territories West of Highways Department (HyD) that the run-in/out at the access point at Ping Ha Road should be constructed in accordance with the latest version of HyD's Standard Drawing No. H1113 and H1114, or H5313, H5314 and H5315, whichever was appropriate to suit the pavement of the adjacent areas. Adequate drainage measures should be provided at the site entrance to prevent surface water running from the site to the nearby public roads and drains through the run in/out. The Civil Engineering and Development Department was planning to widen the northern section of Tin Ha Road from Ping Ha Road to Tin Sam;

- (h) to note the comments of the Director of Fire Services that portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans for the temporary public vehicle park. Detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s). The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed fire service installations (FSIs) were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSIs, justifications should be provided to him for consideration; and
  
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the existing structures without approval under the Buildings Ordinance (BO) should be removed. Temporary buildings were subject to control under the Building (Planning) Regulations Part VII. Formal submission under the BO was required for any proposed new works, including temporary structures.

**Agenda Item 33**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-HT/727 Temporary Open Storage of Containers and Recyclable Materials with Ancillary Workshop and Ancillary Freight Forwarding Facility, Tyre Repair Workshop, Warehouse and Canteen for a Period of 3 Years in “Comprehensive Development Area” zone,  
Lots 38 (Part), 53 (Part), 54, 55, 56 (Part), 57, 58 (Part), 59 (Part), 60 (Part), 61 (Part), 62, 63 (Part) and 67 (Part) in D.D. 128,  
Lots 2999 (Part), 3000 RP (Part), 3001 RP, 3003 RP, 3004 (Part), 3005, 3006, 3007, 3008 RP, 3009 RP, 3010 RP, 3011 RP (Part), 3012 RP, 3013, 3014, 3015, 3016 (Part), 3017 (Part), 3019 (Part), 3020 (Part), 3021 (Part), 3035 RP (Part), 3036 (Part), 3037, 3038 RP, 3039 (Part), 3040 RP (Part), 3041 RP, 3042 RP, 3043 (Part), 3044 (Part), 3045 RP, 3046 RP (Part), 3047 RP, 3050 RP (Part), 3051 (Part), 3053 (Part), 3055 (Part), 3056 S.A (Part), 3056 S.B (Part), 3058 (Part), 3062 (Part), 3063 (Part), 3064, 3065 (Part), 3067 (Part), 3068 (Part), 3069 (Part), 3070 (Part), 3071, 3072 (Part), 3073 S.A (Part), 3105 (Part), 3106 (Part), 3107, 3108 (Part), 3111 RP (Part), 3134 RP (Part) and 3135 (Part) in D.D. 129 and Adjoining Government Land, Ha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-HT/727)

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**Presentation and Question Sessions**

107. Mr. Ernest C.M. Fung, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary open storage of containers and recyclable materials with ancillary workshop and ancillary freight forwarding facility, tyre repair workshop, warehouse and canteen for a period of three years;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the site (the closest being about 35m away) and the access road (Lau Fau Shan Road) and environmental nuisance was expected. She also advised that one air pollution complaint pertaining to the site was received in 2008;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use under the application could be tolerated for a period of three years based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) the applied use was not incompatible with most of the surrounding uses within the subject “Comprehensive Development Area” (“CDA”) zone which was predominantly occupied for open storage yards. Approval of the application on a temporary basis for a period of three years would not frustrate the planning intention of the “CDA” zone since there was not yet any programme/known intention to implement the zoned use on the Outline Zoning Plan;
  - (ii) the development was in line with the Town Planning Board Guidelines No. 13E in that the DEP’s concerns could be addressed by way of approval conditions, and there was no adverse comment from other concerned government departments. The technical concerns regarding the submission and implementation of a landscape and tree preservation proposal, the submission and implementation of a run-in/out proposal and a fire service installations proposal could also be addressed by approval conditions;
  - (iii) to address DEP’s concerns and mitigate any potential environmental impacts, approval conditions restricting the operation hours, the

stacking height of containers/materials and the types of activity on-site had been recommended; and

- (iv) the last Application No. A/YL-HT/533 for renewal of planning approval for temporary open storage of containers and ancillary office, parking of vehicles and maintenance workshop under Applications No. A/YL-HT/383 and 383-1 for a period of three years was approved by the Committee on 7.3.2008. All the approval conditions were complied with. However, the applicant had not applied for a renewal before its expiration on 18.3.2011. There had been no material change in the planning circumstances since the last approval. In addition, due to the demand for open storage and port back-up uses in the area, the Committee had recently approved similar applications No. A/YL-HT/604, 627, 628, 642, 651, 654, 657, 660, 668, 670, 671, 690 and 699 within the same “CDA” zone for similar temporary open storage and port back-up uses. Approval of the subject application was in line with the Committee’s previous decisions.

108. Members had no question on the application.

#### Deliberation Session

109. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.5.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no handling (including loading, unloading, storage and dismantling) of

electrical/electronic appliances including cathode-ray tubes (CRT), CRT computer monitors/television, and CRT equipment, as proposed by the applicant, was allowed on the site during the planning approval period;

- (d) the stacking height of the materials stored within 5m of the periphery of the site should not exceed the height of the boundary fence during the planning approval period;
- (e) the stacking height of containers stored at any other location within the site should not exceed seven units, as proposed by the applicant, during the planning approval period;
- (f) the existing drainage facilities implemented under the previous approved application No. A/YL-HT/533 should be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.11.2011;
- (h) the submission of a tree preservation and landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.11.2011;
- (i) in relation to (h) above the implementation of the tree preservation and landscape proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.2.2012;
- (j) the submission of run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the TPB by 6.11.2011;
- (k) in relation to (j) above, the implementation of run-in/out proposal within 9 months from the date of planning approval to the satisfaction of the

Director of Highways or of the TPB by 6.2.2012;

- (l) the submission of a fire service installations proposal within 6 months from the date of planning approval to the satisfaction of Director of Fire Services or of the TPB by 6.11.2011;
- (m) in relation to (l) above, the implementation of the fire service installations proposal within 9 months from the date of planning approval to the satisfaction of Director of Fire Services or of the TPB by 6.2.2012;
- (n) the provision of fencing of the site, as proposed by the applicant, within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.11.2011;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (p) if any of the above planning conditions (g), (h), (i), (j), (k), (l), (m) or (n) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (q) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) prior planning permission should have been obtained before continuing/commencing the development on the site;
- (b) the permission was given to the open storage of containers and recyclable

materials with ancillary workshop and ancillary freight forwarding facility, tyre repair workshop, warehouse and canteen under application. It did not condone to the vehicle repair workshop and open storage of used electrical/electronic appliances or any other use/development which might currently exist on the site but not covered by the application. The applicant should take immediate action to discontinue such use/development not covered by the permission;

- (c) to resolve any land issue relating to the development with the concerned owner(s) of the site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under the Block Government Lease upon which no structure was allowed to be erected without the prior approval of the Government. The applicant should apply for a Short Term Tenancy to regularize the unauthorized occupation of government land and a Short Term Waiver (STW)/modification of STW No. 3073 to permit structures to be erected or regularize any irregularities on-site. If such application was approved, it would be subject to such terms and conditions, including the payment of premium/fees, as might be imposed by Lands Department. In addition, access to the site required traversing Government Land Allocation No. TYL 825 granted to the Chief Engineer/Land Works (CE/LW) of Civil Engineering and Development Department for the 'Ping Ha Road Improvement-Remaining Works'. CE/LW should be consulted on the interface issue, and he did not guarantee the right-of-way;
- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance;
- (f) to note the comments of the Commissioner for Transport that the land status of the road/path/track leading to the site should be checked with the

lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;

- (g) to note the comments of the Chief Highway Engineer/New Territories West of Highways Department that the run-in/out at the access point at Ping Ha Road should be constructed in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114 or H5133, H5134 and H5135, whichever set was appropriate to match with the existing adjacent pavement. Adequate drainage measures should be provided to prevent surface water running from the site to the nearby public roads and drains through the run-in/out;
- (h) to note the comments of the Director of Fire Services that relevant layout plans incorporated with the proposed fire service installations (FSIs) should be submitted to him for approval. Detailed fire safety requirements would be formulated upon receipt of formal submission of layout plan(s). The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs were to be installed should be clearly marked on the layout plans. Should the applicant wish to apply for exemption from the provision of certain FSIs, justifications should be provided to him for consideration;
- (i) to note the comments of the Chief Building Surveyor/New Territories West of Buildings Department that the granting of planning approval should not be construed as an acceptance of the unauthorized structures on the site under the Buildings Ordinance (BO). Enforcement action might be taken to effect the removal of all unauthorized works should circumstances require. The existing structures without approval under the BO should be removed. The open sheds, converted containers, warehouse and canteen were subject to control under Building (Planning) Regulations (B(P)R) Part VII. The Eastern and Western sites were two separate sites under the BO, and the development intensity and viability were to be assessed individually. The sites did not abut on a specified street having a width

not less than 4.5m, hence the development intensity should be determined under B(P)R 19(3) at the building plan submission stage. Provision of emergency vehicular access was applicable under B(P)R 41D, and access to site under the B(P)R 5, 20 and 21 were also applicable. Sanitary fitments and drainage discharge for the canteen should be provided to comply with the Building (Standard of Sanitary Fitments, Plumbing, Drainage Works and Latrine) Regulations. Formal submission under the BO was required for any proposed new works, including temporary structures. Detail comments would be made at the building plan submission stage; and

- (j) to note the comments of the Director of Agriculture, Fisheries and Conservation that good site practices should be adopted and necessary measures be implemented to avoid causing disturbance to the nearby watercourse.

### **Agenda Item 34**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NSW/207      Proposed Pond Filling for Permitted  
New Territories Exempted House Development  
in “Village Type Development” zone,  
Lots 592 S.A (Part), 592 S.B ss.2 (Part) and  
592 S.B ss.7 S.A (Part) in D.D. 115, Nam Sang Wai, Yuen Long  
(RNTPC Paper No. A/YL-NSW/207)

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#### **Presentation and Question Sessions**

111.      Mr. Ernest C.M. Fung, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed pond filling (at a maximum level of 3.5mPD) for permitted New Territories Exempted House (NTEH) development. The applicant stated that Small House applications on Lot 592 S.B ss.2, including the pond area, had been submitted to the District Lands Officer/Yuen Long (DLO/YL). The proposed pond filling would facilitate Small House developments within the “Village Type Development” (“V”) zone;
- (c) the departmental comments were detailed in paragraph 10 of the Paper and highlighted below:
  - (i) the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from the fish culture point of view. The application site covered a large area of 8 500m<sup>2</sup> of an entire fish pond in the “V” zone within the Wetland Buffer Area (WBA), which was proposed for filling for NTEH development. However, the planning statement did not include any plan to illustrate the layout of the proposed NTEHs. He was concerned about the possible environmental impacts of the proposed development on the nearby ponds, and the applicant should consider minimizing the area of pond filling as far as possible. Besides, there was no information to demonstrate that appropriate measures had been implemented to minimize off-site disturbance impacts and possible environmental nuisance to the nearby fishpond areas. The concerned pond, though currently inactive, could always be reverted into fish culture activities;
  - (ii) the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the proposed development from the landscape planning perspective. As pond was a valuable landscape resource in the area, the submission had not provided any existing landscape information and the proposed development layout, or any landscape mitigation measures to compensate for the loss of pond and to mitigate the landscape impact. Moreover, on the urban design aspect, fish pond was a valuable

visual resource. Since there was no mitigation measures to compensate the loss of the proposed pond filling, he raised objection to the application from the urban design perspective; and

- (iii) the DLO/YL advised that the subject lots were pre-war agricultural lots held under Tai Po New Grant No. 5340. Since the proposed house sites were zoned "V" which encircled a recognized village (Shan Pui Tsuen), his office would consider the Small House applications submitted from the lot owners by issuing Free Building Licences should planning approval be given. He pointed out that only one Small House application on Lot 592 S.B ss.7 S.A in DD 115 was received and being processed by his office. No Small House application on Lots 592 S.A and 592 S.B ss.2 in DD 115 was received;
  
- (d) during the statutory publication period, 10 public comments were received from five green groups, a Yuen Long District Council (YLDC) member, the village representatives (VRs) and villagers of the nearby villages and one private individual. While the VR of Shan Pui Tsuen supported the application as the proposed pond filling was for Small House development for the villagers of his village, the other nine comments raised objection to the application which were summarised below:
  - (i) the Conservancy Association pointed out that as the site fell within the WBA and there was no attempt to assess the potential cumulative impacts caused by various development projects within the WBA, it would threaten the integrity of wetland ecosystem in this region. The approval of the application would set an undesirable precedent for similar applications;
  
  - (ii) the Kadoorie Farm and Botanic Garden Corporation stated that a number of common waterbird species were recorded during their site visit on 28.3.2011, which indicated that the site provided good habitat for a range of waterbirds and had significant conservation value;

- (iii) the Hong Kong Bird Watching Society Limited commented that as there was no existing authorized access road, the construction of new road would improve the accessibility and further disturb the other fishponds within the WBA. The site was within the foraging distance (2km) for breeding egrets, and the construction works would cause a direct loss of foraging habitat of breeding egrets in the area which would result in a decline in breeding success of the birds;
  - (iv) the WWF Hong Kong pointed out that the applicant failed to evaluate the impacts of the proposed pond filling on the waterbirds, especially those ardeids nesting at Tung Shing Lei;
  - (v) the Designing Hong Kong Limited was concerned about the compatibility of the proposed development and the cumulative adverse impact of pond filling in the area;
  - (vi) the YLDC member opined that the fish ponds in Yuen Long were getting less, which should be preserved for nature conservation purpose;
  - (vii) the VRs of Wong Uk Tsuen and the villagers of Shan Pui Tsuen objected to the application on the grounds that no environmental, noise and drainage impact assessments were undertaken for the surrounding areas; pond filling would cause flooding to houses and agricultural land at the low-lying areas; it would destroy the natural ecology and affect the bird habitats; and pond filling in Deep Bay area would set an undesirable precedent; and
  - (viii) one private individual was concerned about the intrusion of private property without the lot owner's consent; there was no details on the depth of pond filling and justifications of the filling; and that if the application was approved, it would be unfair to the lot owner in case there were illegal dumping activities carried out on the site;
- (e) the District Officer (Yuen Long) advised that a letter was received from the indigenous inhabitant representative of Shan Pui Tsuen expressing support

to the application; and

- (f) the PlanD's views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper which were summarised below:
- (i) although NTEH was always permitted in the “V” zone, pond filling at the site required planning permission from the Town Planning Board (TPB) primarily to ensure that it would not result in adverse drainage impact. In addition, other consequent impacts arising from pond filling, such as ecological and landscape impacts, should also be taken into account in assessing the pond filling proposal;
  - (ii) as advised by the DLO/YL, only one Small House application on Lot 592 S.B ss.7 S.A in DD 115, which was mostly outside the application site, was received and being processed. There was no Small House application received within the main part of the subject site. The applicant had not provided any layout for the NTEH development and had not indicated how many houses would be built at the site. The need for filling 8 500m<sup>2</sup> of pond area for NTEH development under the current application was therefore not fully justified;
  - (iii) the site covered one pond and was located within the WBA. DAFC expressed concerns on the possible environmental impacts of such development on the nearby ponds, and commented that the applicant should consider minimizing the area of pond filling as far as possible. Besides, there was no information in the submission to demonstrate that appropriate measures had been implemented to minimize off-site disturbance impacts and possible environmental nuisance to the nearby fishpond areas. As the applicant had not submitted any information in this regard, the development did not comply with the TPB Guidelines No. 12B for ‘Application for Developments within Deep Bay Area’. Although NTEH development within the WBA could be exempted from the requirement of submitting an ecological

impact assessment, the proposed pond filling under application was not a use/development that could be exempted. Since there was no information in the submission to demonstrate that the development would not result in the loss of ecological function of the original pond or complement the ecological functions of the wetlands and fish ponds in and/or around the Deep Bay Area, DAFC did not support the application;

- (iv) the CTP/UD&L considered that pond was a valuable landscape resource in the area. He objected to the application because the applicant had not provided any information on the layout of the proposed NTEH development, the existing landscape or mitigation measures to compensate for the loss of pond and mitigate the landscape impact; and
- (v) although the Chief Engineer/Mainland North, Drainage Services Department had no objection to the application, he considered that a drainage impact assessment should be submitted to alleviate any flooding or drainage concerns.

112. In response to a Member's query, Mr. Ernest C.M. Fung said that PlanD had requested the applicant to submit additional information regarding the layout for the NTEH development and the number of houses to be built at the site, and had relayed the relevant departments' comments, including that raised by DAFC, to the applicant. However, the applicant considered that NTEH was always permitted within the "V" zone and the information requested was not relevant to this application.

113. In reply to the Chairman's question, Mr. Ernest C.M. Fung said that the application site had been zoned "V" since the first publication of the draft Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/1 in 1994. The designation of "V" zone for the area to the north-east of Shan Pui, including the subject site, was to cater for village expansion of the villages of Shan Pui and Yuen Long Kau Hui area which were outside the Nam Sang Wai OZP area.

114. A Member asked whether the application site, after the completion of the pond

filling works, would be divided into smaller portions for NTEH development. Mr. Ernest C.M. Fung responded that the applicant had not provided any information on the number of houses to be built on the site. As the site was zoned “V”, future NTEH development on the site would not require planning permission from the TPB. Since the application was for pond filling, it was assessed by taking into consideration any adverse impacts on the drainage, fishpond and ecology aspects due to the pond filling works.

### Deliberation Session

115. A Member did not support the application as there was no access road to the subject site and the information submitted by the applicant was too sketchy. Another Member noted that one of the public comments objected to the application because the applicant had not obtained the consent of the lot owner. Mr. Ernest C.M. Fung clarified that rather than obtaining the owner’s consent, the applicant had sent notice to Shap Pat Heung Rural Committee and registered mails to the registered owners notifying the application. Such information was contained in Part 6 of the Application Form. The Secretary supplemented that, according to TPB Guidelines No. 31 on satisfying the ‘owner’s consent/ notification’ requirements, if the applicant was not the ‘current landowner’ or the sole ‘current landowner’, he should either (a) obtain the consent of the ‘current landowner(s)’ of the application site; (b) notify the landowner(s) in writing; or (c) take reasonable steps to obtain the consent/give notification. For the subject application, the applicant was not the ‘current landowner’ but had posted notice on the site and sent notice to Shap Pat Heung Rural Committee and registered mails to the registered owners. Hence, the requirements as set out in the TPB Guidelines No. 31 had been met.

116. After further deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the development did not comply with the Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12B) in that there was no information in the submission to demonstrate that the development would not have adverse ecological impacts on the surrounding areas, and that it would not result in the loss of ecological

function of the original pond or complement the ecological function of the wetlands and fish ponds around the Deep Bay Area; and

- (b) there was no information in the submission to demonstrate that the proposed development would not have adverse drainage and landscape impacts on the surrounding areas.

### **Agenda Item 35**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/262      Renewal of Planning Approval for Temporary ‘Container Storage and Container Vehicle Park with Ancillary Repairing Workshop’ Use under Application No. A/YL-NTM/224 for a Period of 3 Years in “Open Storage” zone,  
Lots 2849 (Part), 2915 (Part), 2916 (Part), 2917 (Part), 2919 (Part), 2920 (Part), 2922, 2923, 2925 RP (Part), 2926 RP, 2927 RP, 2930 RP, 2932 RP, 2935 RP, 2937 RP, 2938 RP, 2939 RP, 2940, 2941, 2942, 2943 (Part), 2944 (Part), 2945, 2946 (Part), 2951 (Part), 2952, 2953 RP (Part) and 2972 (Part) in D.D. 102 and Adjoining Government Land, Ngau Tam Mei, Yuen Long (RNTPC Paper No. A/YL-NTM/262)

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#### **Presentation and Question Sessions**

117.      Mr. Ernest C.M. Fung, STP/TMYL, said that the replacement pages 11 and 12 for the Paper had been sent to Members before the meeting. He then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the renewal of planning approval for temporary ‘container storage and container vehicle park with ancillary repairing workshop’ use under

Application No. A/YL-NTM/224, which would be valid until 6.6.2011, for a period of three years;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers in the vicinity of the site and environmental nuisance was expected. Moreover, there was one complaint on air pollution received in 2010 related to the site;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under the application could be tolerated for a further period of three years based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) the renewal application was in line with the Town Planning Board (TPB) Guidelines No. 34B in that there had been no material change in the planning circumstances since the granting of the previous approval under Application No. A/YL-NTM/224, and all the conditions of the previous approval had been complied with. Moreover, the site was zoned “Open Storage” (“OS”) and there had been no major new development or development proposal in the vicinity;
  - (ii) the temporary container storage and container vehicle park with ancillary repairing workshop was generally in line with the planning intention of the “OS” zone which was intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. Also, the development at the site was not incompatible with the surrounding uses in the subject “OS” zone which was predominantly occupied by open storage yards and vehicle repair workshops;

- (iii) the development was in line with the TPB Guidelines No. 13E in that no adverse comments were received from the concerned government departments except DEP. The technical concerns on drainage, landscape and fire safety aspects could be addressed by imposing relevant approval conditions. To address DEP's concerns and mitigate any potential environmental nuisance, approval conditions restricting the operation hours had been recommended; and
- (iv) similar applications No. A/YL-NTM/257, 258 and 260 for container vehicle parking within the same "OS" zone were approved by the Committee in early 2011 based on similar considerations. Approval of the subject application was therefore in line with the Committee's previous decisions.

118. Members had no question on the application.

#### Deliberation Session

119. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years from 7.6.2011 until 6.6.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 11:00 p.m. and 8:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) in addition to (a) above, no operation between 8:00 a.m. and 10:00 a.m. and between 5:00 p.m. and 11:00 p.m. on Sundays or public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) the stacking height of the containers stored within 5m of the peripheral of the site should not exceed the height of the boundary fencing during the

approval period;

- (d) the stacking height of containers stored at any other location within the site should not exceed 8 units during the approval period;
- (e) the fencing implemented on the site should be maintained properly at all times during the planning approval period;
- (f) the drainage facilities implemented on the site should be maintained properly at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on site within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.12.2011;
- (h) the implementation of the compensatory planting under the previous approved application No. A/YL-NTM/224 within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the TPB by 6.12.2011;
- (i) the submission of fire service installations (FSIs) proposals within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.12.2011;
- (j) in relation to (i) above, the provision of FSIs proposed within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.3.2012;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and

- (l) if any of the above planning condition (g), (h), (i) or (j) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) to note the comments of the District Lands Officer/Yuen Long that the site was Old Schedule agricultural lots held under Block Government Lease. No structure was allowed to be erected without the prior approval of the Government and no approval had been given to the four structures on-site used for ancillary repairing workshop, site offices and working area. About 650m<sup>2</sup> of government land (GL) had been included in the site for which no permission had been given for its occupation by his office. Enforcement action would be taken against the unauthorized occupation of GL. The lot owner and the occupier should apply to his office to permit structure to be erected or regularize any irregularities on-site, and for the occupation of GL concerned respectively. If such application was approved, it would be subject to such terms and conditions, including the payment of premium or fee, as might be imposed by the Lands Department. In addition, the affected GL along the western boundary of the application site also fell within Government Land Allocation (GLA) No. TYL 1039 granted to the Chief Engineer/Drainage Projects, Drainage Services Department for “Drainage Improvement in Northern New Territories Package B-Drainage Improvement Work in Ki Lun Tusen, Yuen Long”. The site was accessible to Kwu Tung Road via a local track traversing through GLA No. TYL 1039. His office did not guarantee the right-of-way;
- (b) to note the comments of the Commissioner for Transport that the site was connected to an unknown local access road which was not managed by the Transport Department. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibilities of the local access road should be clarified

with the relevant lands and maintenance authorities accordingly;

- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department was not/should not be responsible for the maintenance of any existing vehicular access connecting the site and Kwu Tung Road;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the site abutted on the project limit of PWP Item 118CD (Drainage Improvement in Northern New Territories Package B – Drainage Improvement Works in Ki Lun Tsuen, Yuen Long, New Territories). Therefore, the site should not impose any restriction to the drainage improvement works which were under construction stage. The site was in an area where there was currently no public sewerage maintained by his office available for connection. For sewage disposal and treatment, agreement from the Environmental Protection Department should be obtained. Also, the site was in an area where there was currently no public stormwater drainage maintained by his office available for connection. The area might be served by existing local village drains, which might be maintained by the Yuen Long District Office. If the proposed discharge point was to these drains, comment/agreement should be sought from the relevant departments on the proposal. The applicant should note his other comments as detailed in Appendix VI of the Paper;
- (e) to follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Director of Environmental Protection to minimize potential environmental impacts on the surrounding areas;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that an existing tree along the northern boundary was topped, which had greatly affected the health and stability of the tree. The applicant should compensate the topped tree with similar size tree and plant the compensatory tree in suitable location within the site;

- (g) to note the comments of the Director of Agriculture, Fisheries and Conservation that the existing access roads, water sources and drainage should be maintained and other disturbance should be avoided in order not to affect any fish pond farming operation in the vicinity. Also, good site practices should be adopted to prevent discharging surface run-off into the stream or damaging the trees during the operation phase;
- (h) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that existing water mains would be affected. The applicant should bear the cost of any necessary water mains diversion works affected by the development. In case it was not feasible to divert the affected water mains, a 3m wide waterworks reserve within 1.5 m from the centerlines of the water mains should be provided. No structure should be erected over this area and such area should not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen should 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 might require or authorize. The Government should 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;
- (i) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority. Should the applicant wish to apply for exemption from the provision of certain fire service installations, justifications should be provided to his department for consideration; and
- (j) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that unauthorized structures on site should be removed as they were liable to action under section 24 of the Buildings

Ordinance (BO). The granting of the planning approval should not be construed as condoning to any unauthorized structures existing on the site under the BO and the allied regulations. Actions appropriate under the BO or other enactment might be taken if contravention was found. Site offices and ancillary repairing workshop were considered as temporary buildings and were subject to control under Building (Planning) Regulations (B(P)R) Part VII. Formal submission of any proposed new works, including temporary structure, for approval under the BO was required. If the site did not abut on a specified street having a width not less than 4.5m, the development intensity should be determined under (B(P)R) 19(3) at the building plan submission stage. Provision of emergency vehicular access was applicable under B(P)R 41D.

### **Agenda Item 36**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-NTM/263      Temporary Cargo Handling and Forwarding Facility (Logistics Centre) with Ancillary Site Offices for a Period of 3 Years in “Open Storage” zone,  
Lots 781 (Part), 783 (Part), 784 (Part), 785, 786, 787, 788 (Part), 789 (Part), 790 (Part), 791 (Part), 792 (Part), 793 (Part), 794 (Part), 795 (Part), 796 (Part), 797, 798 (Part), 799, 800, 801, 802, 803, 804, 805 (Part), 806, 807 (Part), 808 (Part), 809, 810, 811, 812 S.A, 812 S.B, 813 (Part), 814 (Part), 815 (Part), 816 (Part), 817 (Part), 819, 820, 821, 823 (Part), 824, 825 (Part) in D.D. 102 and Adjoining Government Land, Ngau Tam Mei, Yuen Long  
(RNTPC Paper No. A/YL-NTM/263)

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#### **Presentation and Question Sessions**

121.      Mr. Ernest C.M. Fung, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary cargo handling and forwarding facility (logistics centre) with ancillary site offices for a period of three years;
- (c) the departmental comments were detailed in paragraph 10 of the Paper and highlighted below:
  - (i) the District Lands Officer/Yuen Long (DLO/YL) advised that the site was situated on Old Schedule Agricultural Lots held under Block Government Lease under which no structure was allowed to be erected without prior approval from his office. No approval had been given to the on-site structures used as pump house, site offices, cargo handling and forwarding facilities. Lease enforcement action was initiated by his office and warning letters against the unauthorized structures within Lots 781-807, 810, 813, 819-821, 823, 824, 826RP, 827 and 829 were issued on 27.9.2010. These warning letters were registered in the Land Registry except the one for Lot 810 as the unauthorized structure was subsequently removed. Besides, an unauthorized bridge structure involving about 44m<sup>2</sup> of government land had been included in the application site. No permission for the occupation of this government land had been given by his office;
  - (ii) the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) did not support the application as the site was located in Shek Wu Wai, which was a low-lying area and was a known flooding black spot in DSD's Flooding Blackspot List with a long history of flooding. This location had been subject to various flooding complaints since 2005. Moreover, the site was filled up in the past years and the filling had depleted the concerned flood plain area. As a result, the development would create adverse drainage impact on the adjacent area;

- (iii) the Commissioner of Police (C of P) did not support the application. Between January and March 2011, the Lok Ma Chau Police Division had received 11 complaints on vehicle obstruction caused by the queuing of container trucks/heavy vehicles in the vicinity of the application site. It was evident that the development would increase the traffic flow, particularly heavy vehicles, on the nearby roads and would cause congestion to this section of Castle Peak Road. The application should not be approved until a smooth traffic flow at the nearby road network could be maintained;
  - (iv) the Commissioner for Transport (C for T) did not support the application. As the site could only be accessed from the public road network via a private lot, the applicant should demonstrate with proof that consent was obtained from the corresponding landlord(s) for the access or right-of-way. Otherwise, alternative vehicular access route between the subject site and the public road network should be clearly demonstrated;
  - (v) the Director of Environmental Protection (DEP) did not support the application because there were sensitive receivers in the vicinity of the site and environmental nuisance was expected. Moreover, there was one complaint received in 2009 regarding waste at the subject site; and
  - (vi) the Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application from the fisheries point of view since the ponds within the site, which should be preserved for fish farming, were found to be filled during site inspection in late 2009;
- (d) during the statutory publication period, eight comments were received raising objection to the application which were summarised below:
- (i) the San Tin Rural Committee stated that the site had been formed and developed without obtaining consents from all the landowners;
  - (ii) the Manager of Man Lai San Cho pointed out that the applicant had

not obtained his consent for developing the site;

- (iii) four comments from a group of villagers (in the form of standard letter) strongly objected to the application as the site was located within area of flooding blackspot, and the operation of the development had paralysed the traffic on Shek Wu Wai Road; and
  - (iv) two comments from the residents of Shek Wu Wai stated that the development would degrade the tranquil rural environment; induce flooding problem in the surrounding areas; and generate traffic safety problem; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper which were summarised below:
- (i) the temporary cargo handling and forwarding facility (logistics centre) with ancillary site offices were generally in line with the planning intention of the “Open Storage” zone, which was intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. Also, the development at the site was generally not incompatible with the surrounding uses including vehicle repair workshop, open storage yards of recycled materials/ construction materials and vehicle parks. Besides, the site fell within Category 1 areas as defined under the Town Planning Board Guidelines No. 13E. Notwithstanding the above, favourable consideration would only be given subject to no major adverse departmental comments and local objections. In this regard, various government departments had raised objection to/adverse comments on the application;
  - (ii) CE/MN, DSD did not support the application as Shek Wu Wai was a known flooding black spot which had a long history of flooding. DSD had received various complaint cases related to the site since 2005. Moreover, the site was filled up in the past years and the

filling had depleted the concerned flood plain area. As a result, the development would create adverse drainage impact on the adjacent area. However, there was no information in the submission to address the flooding concern;

- (iii) on the traffic aspect, C of P indicated that 11 complaints on vehicle obstruction caused by the queuing of container trucks/heavy vehicles in the vicinity of the subject site were received in the first quarter of 2011. The applied use would very likely increase the traffic flow, particularly heavy vehicles, on the nearby roads and would cause congestion to this section of Castle Peak Road. He considered that the application should not be approved until a smooth traffic flow could be maintained on the nearby road network;
- (iv) C for T did not support the application in that the site could only be accessed from the public road network via a private lot. However, there was no information in the submission to demonstrate that consent from the landlord(s) was given allowing the applicant to use the access road, or an alternative vehicular access route was available between the subject site and the public road network;
- (v) DEP was concerned about the environmental nuisance to the sensitive receivers in the vicinity of the site, with the nearest one being 90m away. The development involving frequent use of container vehicles and heavy goods vehicles would have adverse environmental impact on the surrounding areas;
- (vi) DAFC had reservation on the application as the ponds within the site, which should be preserved for fish farming, had been filled since 2009;
- (vii) the ingress/egress of the site was located on an unauthorized bridge on government land and via the adjacent site to its northwest connecting to Shek Wu Wai Road. In the absence of this bridge, the entire site was inaccessible. The applicant had not provided any information to demonstrate the structural safety of this

unauthorized bridge; and

- (viii) the previous application (No. A/YL-NTM/242) at the site for temporary container storage yard and container vehicle park with ancillary vehicle repair workshops and site offices for a period of three years was rejected by the Committee on 6.11.2009 mainly on the grounds of adverse departmental comments and no technical assessment to demonstrate no adverse environmental, drainage and traffic impacts of the development on the surrounding areas. The current application was similar to the previous rejected case in that the applicant had not submitted any technical assessment to demonstrate that the development would not have adverse environmental, drainage and traffic impacts on the surrounding areas.

122. A Member was in sympathy with the local residents and raised concerns on the adverse impacts brought about by the operation of the applied use on the surrounding areas. This Member opined that enforcement action should be undertaken by relevant authorities on such an unauthorized development (UD).

123. In response to the query raised by Mr. Ambrose S.Y. Cheong of the Transport Department (TD), Mr. Ernest C.M. Fung clarified that the first sentence of paragraph 12.5 of the Paper referred to C for T's comments on the access arrangement to the application site. The second sentence of the paragraph was PlanD's comments on the unauthorised bridge situated on government land.

#### Deliberation Session

124. Regarding some Members' concern on the adverse impacts caused by the UD at the application site, the Secretary reported that an Enforcement Notice was issued to the concerned parties on 19.1.2011 requiring the discontinuation of the UD by 19.3.2011. Site inspection conducted on 20.3.2011 revealed that the UD had not been discontinued. As such, prosecution action would be undertaken by the Planning Authority. Members would be informed of the progress of the enforcement action in due course.

125. After further deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper. As “land dispute” was a land matter outside the purview of the TPB, the Secretary suggested to delete these words from the rejection reason in paragraph 13.1(a) of the Paper. Members agreed and considered that the other reason in paragraph 13.1(b) was appropriate. The reasons for rejection were :

- (a) the temporary cargo handling and forwarding facility (logistics centre) with ancillary site offices was not in line with the Town Planning Board Guidelines No. 13E for Application for Temporary Open Storage and Port Back-up Uses in that there were adverse departmental comments and objections from local residents on environmental, flooding and traffic grounds; and
- (b) there was no technical assessment in the submission to demonstrate that the development would not have adverse environmental, drainage and traffic impacts on the surrounding areas, and that the bridge providing access to the site was structurally safe.

[The Chairman thanked Mr. Ernest C.M. Fung, STP/TMYL, for his attendance to answer Members’ enquires. Mr. Fung left the meeting at this point.]

### **Agenda Items 37 to 40**

#### **Section 16 Applications**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTN/358 Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Lot 60 S.B in D.D. 110, Tai Kong Po, Kam Tin, Yuen Long  
(RNTPC Paper No. A/YL-KTN/358 to 361)

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A/YL-KTN/359 Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Lot 60 S.E in D.D. 110, Tai Kong Po, Kam Tin, Yuen Long  
(RNTPC Paper No. A/YL-KTN/358 to 361)

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A/YL-KTN/360 Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Lot 60 S.A in D.D. 110, Tai Kong Po, Kam Tin, Yuen Long  
(RNTPC Paper No. A/YL-KTN/358 to 361)

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A/YL-KTN/361 Proposed House (New Territories Exempted House – Small House)  
in “Agriculture” zone,  
Lot 60 S.F in D.D. 110, Tai Kong Po, Kam Tin, Yuen Long  
(RNTPC Paper No. A/YL-KTN/358 to 361)

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126. The Committee noted that the four applications were grouped together under one RNTPC Paper as they were for the same use and the sites were located next to each other within the same “Agriculture” (“AGR”) zone. The Committee agreed that the four applications could be considered together.

#### Presentation and Question Sessions

127. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the applications and covered the following aspects as detailed in the Paper :

- (a) background to the applications;
- (b) the proposed house (New Territories Exempted House (NTEH) – Small House) at each of the application site;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the applications;
- (d) during the statutory publication period, a public comment was received for each of the application from Designing Hong Kong Limited. The

commenter objected to the four applications as the proposed houses were incompatible with the zoning intention and character of the area; a sustainable layout with quality design was not available for the area; and approval of further development without a sustainable layout would have adverse impacts on the living environment and the well being of residents and create health and social problems; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the applications based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) when the “Village Type Development” (“V”) zones were proposed on the first publication of Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/1 in 1994, the village ‘environs’ (‘VE’) boundaries of Tai Kong Po and Cheung Kong Tsuen located close to each other were not available though both were recognized villages. A “V” zone was only designated at Cheung Kong Tsuen, which was relatively more accessible from major roads, and sufficient land had been reserved in the “V” zone at Cheung Kong Tsuen to meet the Small House demand of both Cheung Kong Tsuen and Tai Kong Po. However, according to the prevailing Small House policy as advised by the District Lands Officer/Yuen Long (DLO/YL), cross-village Small House application submitted by the villagers of Tai Kong Po, which was a post-1898 recognized village, should not be considered. Therefore, the villagers of Tai Kong Po could only apply for Small Houses within their own village, i.e. within its ‘VE’ which had been prepared since around 1999. The four applications met the ‘Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories’ in that the sites were located entirely within the ‘VE’ and there was no “V” zone for Tai Kong Po at the moment to meet the demand for Small House of Tai Kong Po;
  - (ii) while the sites fell within the “AGR” zone, there were already a number of village houses/residential structures in the vicinity of the sites and the Director of Agriculture, Fisheries and Conservation had

no adverse comment on the applications. As the Chief Engineer/Development (2), Water Supplies Department advised that the proposed NTEH/Small House under Application No. A/YL-KTN/361 would affect the existing water mains, an approval condition requiring the applicant to set back the eastern boundary of the concerned site or to divert the existing water mains was recommended;

- (iii) the previous Application No. A/YL-KTN/228 covering the sites for the development of four NTEHs/Small Houses submitted by the same applicants was rejected by the Committee in 2005 because the applicants did not provide strong justification for a departure from the planning intention of the “AGR” zone, and there was no information to demonstrate why suitable sites within the areas zoned “V” could not be made available for the proposed development. For the current application, DLO/YL had advised that cross-village Small House application submitted by the villagers of Tai Kong Po should not be considered under the prevailing Small House policy. Besides, similar applications within the ‘VE’ of Tai Kong Po including Application No. A/YL-KTN/217 adjoining the sites had been approved by the Committee from 2005 to 2008. Approval of the current applications would be in line with the Committee’s decisions on similar applications in Tai Kong Po taking into account the latest comments of the DLO/YL; and
- (iv) regarding the public comment against the four applications, it should be noted that the vicinity of the sites was already occupied by the village settlement of Tai Kong Po. Besides, relevant government departments including the Agriculture, Fisheries and Conservation Department, Lands Department, Drainage Services Department, Water Supplies Department, Yuen Long District Office, Urban Design and Landscape Section of Planning Department, Transport Department and Environmental Protection Department had no adverse comment on the applications.

128. In reply to a Member's question, Mr. Kepler S.Y. Yuen said that there was currently no "V" zone designated for Tai Kong Po because when the Kam Tin North OZP was first prepared in 1994, the 'VE' boundaries of Tai Kong Po and Cheung Kong Tsuen were not available at that time. A "V" zone was only designated at Cheung Kong Tsuen and there was sufficient land in the subject "V" zone to meet the Small House demand of both Cheung Kong Tsuen and Tai Kong Po. However, as advised by the DLO/YL, cross-village Small House applications should not be considered according to the prevailing Small House policy. Therefore, the villagers of Tai Kong Po could only apply for Small Houses within their own village, i.e. within its 'VE'. Mr. Yuen added that consideration would be given to designating a "V" zone for Tai Kong Po when opportunity arose.

### Deliberation Session

129. After deliberation, the Committee decided to approve the applications, on the terms of the applications as submitted to the Town Planning Board (TPB). Each permission should be valid until 6.5.2015, 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. Each permission was subject to the following conditions :

#### Applications No. A/YL-KTN/358 to 360

- (a) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the TPB;
- (b) the design and provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB; and
- (c) the design and provision of emergency vehicular access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

#### Application No. A/YL-KTN/361

- (a) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the TPB;

- (b) the design and provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB;
- (c) the design and provision of emergency vehicular access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (d) the setting back of the eastern boundary of the application site to avoid the existing water mains or the diversion of the existing water mains within the application site affected by the proposed development to the satisfaction of the Director of Water Supplies or of the TPB.

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

Applications No. A/YL-KTN/358 to 360

- (a) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the landscaping proposal should indicate the proposed tree species, size and spacing;
- (b) to note the comments of the Commissioner for Transport that the site was connected to public road network via a section of local access road which was not managed by the Transport Department. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of the Director of Fire Services that the 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' issued by the Lands Department should be followed; and
- (d) to note the comments of the Director of Electrical and Mechanical Services that if there was underground cable (and/or overhead line) within or in the vicinity of the site, the applicant and his contractors should liaise with the

electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure prior to establishing any structure within the sites. The applicant and his contractors should observe the 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of the electricity supply lines.

Application No. A/YL-KTN/361

- (a) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the landscaping proposal should indicate the proposed tree species, size and spacing;
- (b) to note the comments of the Commissioner for Transport that the site was connected to public road network via a section of local access road which was not managed by the Transport Department. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (c) to note the comments of the Director of Fire Services that the 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' issued by the Lands Department should be followed;
- (d) to note the comments of the Director of Electrical and Mechanical Services that if there was underground cable (and/or overhead line) within or in the vicinity of the site, the applicant and his contractors should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure prior to establishing any structure within the sites. The applicant and his contractors should observe the 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the

vicinity of the electricity supply lines; and

- (e) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that the existing water mains would be affected. A waterworks reserve within 1.5m from the centerline of the water main should be provided to WSD. No structure should be erected over the waterworks reserve and such area should not be used for storage or car-parking purposes. The Water Authority and his officers and contractors, his or their workmen should have free access at all times to the said area with the 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 might require or authorize. Besides, no trees/shrubs should be planted within the waterworks reserve. If the waterworks reserve could not be provided due to the site constraint, the applicant should divert the existing water mains from the site to the satisfaction of WSD. The applicant should be responsible to resolve all the land matters and should bear the costs for the diversion works.

#### **Agenda Item 41**

##### Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTN/362      Renewal of Planning Approval for Temporary ‘Open Storage of Construction Machinery, Construction Material and Cable and Ancillary Parking of Lorry and Container Trailer/Tractor’ Use under Application No. A/YL-KTN/327 for a Period of 2 Years in “Other Specified Uses” annotated “Railway Reserve” zone, Lots 431 (Part), 432 (Part), 433 S.B (Part), 433 S.C (Part), 1739 S.B (Part) and 1739 RP (Part) in D.D. 107 and Adjoining Government Land, San Tam Road, Yuen Long (RNTPC Paper No. A/YL-KTN/362)

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Presentation and Question Sessions

131. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the renewal of planning approval for temporary ‘open storage of construction machinery, construction material and cable and ancillary parking of lorry and container trailer/tractor’ use under Application No. A/YL-KTN/327, which would be valid until 22.5.2011, for a period of two years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers, i.e. residential structures, located to the north and south and in the vicinity of the site and environmental nuisance was expected;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use under the application could be tolerated for a further period of two years based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) the development was considered not incompatible with the surrounding land uses which mainly comprised container vehicle parks, workshops, warehouses, open storage/storage yards, a food processing factory, agricultural land and vacant/unused land. While the “Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve)”) zone was primarily for reservation of land for railway development, the Railway Development Office of Highways Department had no adverse comment on the application.

As the exact alignment and development programme of the Northern Link had yet to be finalized, temporary approval would not jeopardize the long-term planning intention of the “OU(Railway Reserve)” zone;

- (ii) the renewal application was in line with the Town Planning Board (TPB) Guidelines No. 34B and No. 13E in that similar previous approvals had been granted and the approval conditions on fire safety aspect under the last application (No. A/YL-KTN/327) had been complied with; no adverse comment was received from the relevant departments except DEP; there had been no major change in the planning circumstances since the last approval; and the approval conditions had been complied with; and the approval period sought was the same as the last application (i.e. two years); and
- (iii) there was no environmental complaint received by DEP in the past three years. Besides, the applicant undertook to carry out a number of preventive/mitigation measures, including restricting the operation hours and limiting the stacking height of construction machinery and material and cable and not to conduct workshop-related activities. It was also noted that the access road had been hard paved and the peripheral fencing had been painted green to minimize the environmental impact. To address the DEP’s concerns on the possible nuisance generated by the temporary use and to reflect the applicant’s undertaking, approval conditions restricting the operation hours, prohibiting dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities and requiring the implementation of the proposed environmental mitigation measures were recommended.

132. Members had no question on the application.

#### Deliberation Session

133. After deliberation, the Committee decided to approve the application on a

temporary basis for a period of 2 years from 23.5.2011 to 22.5.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays was allowed on the site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out on the site at any time during the planning approval period;
- (d) no stacking of materials above the height of the peripheral fencing (2.5m), as proposed by the applicant, should be allowed on the site at any time during the planning approval period;
- (e) the environmental mitigation measures, as proposed by the applicant, should be implemented at all times during the planning approval period;
- (f) the existing landscape planting on the site should be maintained at all times during the planning approval period;
- (g) the existing drainage facilities should be maintained at all times during the planning approval period;
- (h) the implementation of replacement tree planting within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the TPB by 22.11.2011;
- (i) the submission of a record of the existing drainage facilities on the site within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the

TPB by 22.11.2011;

- (j) the submission of fire service installations (FSIs) proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 22.11.2011;
- (k) in relation to (j) above, the provision of FSIs within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 22.2.2012;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (m) if any of the above planning conditions (h), (i), (j) or (k) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (n) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the District Lands Officer/Yuen Long that the site was accessible to San Tam Road via government land (GL) and his office did not provide maintenance works on this GL or guarantee right-of-way. The lot owner and occupier of the GL concerned should apply to his office to permit structures to be erected or regularize any irregularities on site. If such application was approved, it would be subject to such terms and conditions, including the payment of premium or fee, as might be imposed by the Lands Department;

- (b) to note the comments of the Commissioner for Transport that the ingress/egress points of the application site were connected to public road network via a local access road which was not managed by the Transport Department. The land status of the local access road should be checked with the lands authority. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant land and maintenance authorities accordingly;
- (c) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the construction materials stored under some of the trees close to the tree trunks should be removed;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and San Tam Road;
- (e) to adopt environmental mitigation measures as set out in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisances;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the all unauthorized structures on the site should be removed. All building works were subject to compliance with the Buildings Ordinance (BO). Authorized Person should be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the BO. Enforcement action might be taken to effect the removal of all unauthorized works in the future;
- (g) to note the comments of the Director of Agriculture, Fisheries and Conservation that the maintenance responsibility of the six *Fiscus microcarpa* to be transplanted from Lot 1739RP onto government land

within the site boundary near San Tam Road as a result of the ingress/egress relocation should be clarified. Besides, good site practices should be adopted to prevent disturbing the trees adjacent to the western boundary of the site during operation phase;

- (h) to note the comments of the Director of Electrical and Mechanical Services that if there was underground cable (and/or overhead line) within or in the vicinity of the site, prior consultation and arrangement with the electricity supplier was necessary for application site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV and above as stipulated in the Hong Kong Planning Standard and Guidelines. Prior to establishing any structure within the application site, the applicant and his contractors should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure. The applicant and his contractors should observe the 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of electricity supply lines. Moreover, there was a high pressure gas transmission pipeline running along San Tam Road (i.e. the western boundary of the site which might be used for ingress/egress of vehicular traffic). The applicant should maintain liaison/coordination with the Hong Kong and China Gas Company Limited in respect of the exact location of existing or planned gas pipes routes/gas installations in the vicinity of the proposed work area and the minimum set back distance away from the gas pipelines if any excavation works was required. The applicant should also note the requirements under the 'Code of Practice on Avoiding Danger From Gas Pipes' issued by his department; and
- (i) to note the comments of the Director of Fire Services that relevant layout plans incorporated with the proposed fire service installations (FSIs) should be submitted to his department for approval. Should the applicant wish to apply for exemption from the provision of certain FSIs, justifications should be provided to his department for consideration.

**Agenda Item 42**

**Section 16 Application**

[Open Meeting]

A/YL-KTS/525      Temporary Open Storage of New Coaches and New Vehicle Parts with Ancillary Workshop for a Period of 3 Years in “Other Specified Uses” annotated “Rural Use” zone, Lots 560(Part), 563(Part), 564(Part), 565(Part), 618S.C(Part) and 618RP(Part) in D.D. 106, Kam Sheung Road, Yuen Long (RNTPC Paper No. A/YL-KTS/525)

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135.            The Secretary reported that on 15.4.2011, the applicant requested for a deferment of the consideration of the application for two months in order to allow time for the applicant to liaise with the Fire Services Department to address the fire safety issue of the site.

136.            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. The Committee also agreed to advise the applicant that a further period of two months were allowed for preparation of the submission of further information, and since this was the second deferment request and a total of four months had been allowed, no further deferment would be granted unless under very special circumstances.

**Agenda Item 43**

**Section 16 Application**

[Open Meeting]

A/YL-KTS/534      Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years in “Agriculture” zone, Lots 221 S.F – S.G RP (Part) and 221 S.H (Part) in D.D. 106, Pat Heung, Yuen Long (RNTPC Paper No. A/YL-KTS/534)

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137. The Secretary reported that on 29.4.2011, the applicant requested for a deferment of the consideration of the application for two months in order to allow time for the applicant to clarify the layout of the development to address the concern of the Planning Department.

138. 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. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

#### **Agenda Item 44**

##### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/530      Temporary Open Storage of Scrap Metal for Recycling with Ancillary Open-Air Workshop for a Period of 3 Years in “Undetermined” and “Village Type Development” zones, Lots 329 S.A ss.1 (Part), 329 S.A ss.2 (Part), 329 S.A ss.3 (Part), 329 RP and 330 to 333 in D.D. 119 and Adjoining Government Land, Shan Ha Tsuen, Yuen Long  
(RNTPC Paper No. A/YL-TYST/530)

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##### **Presentation and Question Sessions**

139. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary open storage of scrap metal for recycling with ancillary open-air workshop for a period of three years;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers of residential structures in the vicinity of and along the access track leading to the site, and environmental nuisance was expected;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use under the application could be tolerated for a period of three years based on the assessments set out in paragraph 12 of the Paper which were summarised below:
  - (i) a major part of the site (about 79.4%) fell within the “Undetermined” (“U”) zone, i.e. Category 1 areas defined under the Town Planning Board (TPB) Guidelines No. 13E where favourable consideration would normally be given to the application. The application was generally in line with TPB Guidelines No. 13E in that the concerns of relevant departments were technical in nature which could be addressed through the implementation of approval conditions. There were also similar applications in this part of the “U” zone that had been approved with conditions. The “U” zone was generally intended for open storage use but was designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, the site was accessed from Shan Ha Road instead of Kung Um Road and the Transport Department had no adverse comment on the application. It was considered that approval of the application on a temporary basis would not frustrate the long-term use of the area;
  - (ii) although 20.6 % (about 1 100m<sup>2</sup>) of the site fell within the adjacent “Village Type Development” (“V”) zone, i.e. Category 4 areas where applications would normally be rejected except under

exceptional circumstances, this area had been included in the site in the previous applications and it formed an integral part of the whole open storage yard under application. The northern boundary of the site largely followed the lot boundaries and the bank of the stream course. Given the physical separation of the site from the rest of the “V” zone afforded by this stream course, and as the part of the “V” zone to the north of the site was only sparsely populated, and there was no current Small House application received on the site, open storage use on the “V” zone could be tolerated in the interim;

- (iii) the development was not incompatible with the surrounding areas which were mainly mixed with open storage yards. Previous planning approvals had been granted for the same use on the site since 2002 under Applications No. A/YL-TYST/165, 192, 205, 317 and 386. The approval conditions of the last application (No. A/YL-TYST/386) had been complied with by the applicant. While the site boundary was slightly amended in the current application, there had been no material change in planning circumstances to warrant departure from the Committee’s previous decision;
- (iv) although DEP did not support the application in view of the residential uses located in the vicinity of the site (the nearest being about 40m to 45m to its north and northwest) and along the access road leading to the site and the complaint on air pollution received last year related to the storage of plastic waste, the subject of the environmental complaint had been resolved and the applicant had proposed no operation at the site during night time between 6:00 p.m. and 9:00 a.m. It was expected that the development would not generate significant adverse environmental impacts on the surrounding areas if it was implemented accordingly. To address concerns on the possible adverse environmental impacts, approval conditions restricting the operation hours were recommended; and
- (v) other government departments consulted had no adverse comment on the application. Technical concerns on drainage, tree

preservation and landscape, and fire safety requirements would be addressed by imposing relevant approval conditions.

140. Members had no question on the application.

Deliberation Session

141. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 6.5.2014, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no operation on Sundays or public holidays was allowed on the application site during the planning approval period;
- (c) the existing drainage facilities implemented under Application No. A/YL-TYST/386 on the application site should be maintained at all times during the planning approval period;
- (d) the submission of a record of the existing drainage facilities on the application site within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 6.11.2011;
- (e) the submission of tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.11.2011;
- (f) in relation to (e) above, the implementation of tree preservation and landscape proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 6.2.2012;

- (g) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.11.2011;
- (h) in relation to (g) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 6.2.2012;
- (i) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (j) if any of the above planning conditions (d), (e), (f), (g) or (h) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (k) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to resolve any land issue relating to the development with the concerned owner(s) of the site;
- (b) to note the comments of the District Lands Officer/Yuen Long that the lot owners and occupier of government land (GL) should apply to his office to permit structures to be erected or regularize any irregularities on-site. If such applications were approved, they would be subject to such terms and conditions, including the payment of premium or fee, as might be imposed by the Lands Department. Besides, the site was accessible through a long

stretch of informal village track on GL and other private land extended from Shan Ha Road. His office did not provide maintenance works for this track or guarantee right-of-way;

- (c) to note the comments of the Commissioner for Transport that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department should not be responsible for the maintenance of any access connecting the site and Shan Ha Road;
- (e) to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisances;
- (f) to note the comments of the Director of Agriculture, Fisheries and Conservation that good site practices should be adopted and necessary measures should be implemented to avoid causing disturbance and water pollution to the nearby watercourses;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that 18 number of existing trees were found damaged, missing or dead on-site and replacement planting was required. Moreover, many tree trunks were buried by scrap metal or stored materials which adversely affected the tree health. The stored materials should be set back at least 1m from the tree trunks in order to avoid damages to the trees;
- (h) to note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that for provision of water supply to the

development, the applicant might need to extend his inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards. Besides, water mains in the vicinity of the site could not provide the standard pedestal hydrant;

- (i) to note the comments of the Director of Fire Services that relevant layout plans incorporated with the proposed fire service installations (FSIs) should be submitted to his department for approval. In formulating the FSIs proposal for the proposed open storage site, the applicant should make reference to the requirements that, for other open storage, open shed or enclosed structure with total floor area less than 230m<sup>2</sup> with access for emergency vehicles to reach 30m travelling distance to structures, portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans. Should the applicant wish to apply for exemption from the provision of certain FSIs as required, justifications should be provided to his department for consideration;
- (j) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that all unauthorized building works/structures should be removed. All building works were subject to compliance with the Buildings Ordinance (BO). An Authorized Person should be appointed to coordinate all building works. The granting of the planning approval should not be construed as an acceptance of the unauthorized structures on the site under the BO. Enforcement action might be taken to effect the removal of all unauthorized works in the future; and
- (k) to note the comments of the Director of Electrical and Mechanical Services that the applicant should approach the electricity supplier for the requisition of cable plans to find out whether there was any underground cable (and/or overhead line) within or in the vicinity of the site. For site within the preferred working corridor of high voltage overhead lines at transmission

voltage level 132kV and above as stipulated in the Hong Kong Planning Standards and Guidelines, prior consultation and arrangement with the electricity supplier was necessary. Prior to establishing any structure within the site, the applicant and his contractors should liaise with the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure. The applicant and his contractors should observe the ‘Code of Practice on Working near Electricity Supply Lines’ established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of the electricity supply lines.

[The Chairman thanked Mr. Kepler S.Y. Yuen, STP/TMYL, for his attendance to answer Members’ enquires. Mr.Yuen left the meeting at this point.]

**Agenda Item 45**

Any Other Business

143. There being no other business, the meeting was closed at 5:05 p.m..