

**Minutes of 1191st Meeting of the
Town Planning Board held on 28.12.2018**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Bernadette H.H. Linn

Chairperson

Professor S.C. Wong

Vice-Chairperson

Mr Lincoln L.H. Huang

Mr H.W. Cheung

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr David Y.T. Lui

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Professor T.S. Liu

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Daniel K.S. Lau

Mr K.W. Leung

Professor John C.Y. Ng

Professor Jonathan W.C. Wong

Deputy Director of Environmental Protection (1)
Mr Elvis W.K. Au

Director of Lands
Ms Karen P.Y. Chan

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

Principal Assistant Secretary (Transport) 3
Transport and Housing Bureau
Mr Andy S.H. Lam

Director of Planning
Mr Raymond K.W. Lee

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

Secretary

Absent with Apologies

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Dr C.H. Hau

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Miss Winnie W.M. Ng

Mr Stanley T.S. Choi

Mr L.T. Kwok

Ms Lilian S.K. Law

Dr Jeanne C.Y. Ng

Mr Ricky W.Y. Yu

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Mr Kepler S.Y. Yuen

Senior Town Planner/Town Planning Board

Mr Kelvin K.H. Chan

Agenda Item 1

Confirmation of Minutes of the 1190th Meeting held on 14.12.2018

[The item was conducted in Cantonese.]

1. The draft minutes of the 1190th Meeting held on 14.12.2018 were sent to Members on 28.12.2018 and tabled at the meeting. Subject to no proposed amendments by Members on or before 31.12.2018, the minutes would be confirmed without amendments.

[Post-meeting Note: The minutes were confirmed on 31.12.2018 without amendments.]

Agenda Item 2

Matters Arising

[The item was conducted in Cantonese.]

2. The Secretary reported that on 11.12.2018, the Chief Executive in Council approved the draft Kam Tin South Outline Zoning Plan (OZP) (renumbered as No. S/YL-KTS/15), and the draft Tuen Mun OZP (renumbered as No. S/TM/35) under section 9(1)(a) of the Town Planning Ordinance. The approval of the OZPs was notified in the Gazette on 21.12.2018.

Tuen Mun & Yuen Long West District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-TYST/914

Proposed Temporary Eating Place and Shop and Services (Grocery Store) for a Period of 3 Years in “Residential (Group C)” Zone, Lots 1279 S.B ss.1 S.A (Part), 1279 S.B ss.1 S.B (Part) and 1281 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long

(TPB Paper No. 10504)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

3. The representative of the Planning Department (PlanD), Mr David Y.M. Ng, District Planning Officer/Tuen Mun & Yuen Long West (DPO/TMYLW) was invited to the meeting at this point.

4. The Chairperson extended a welcome and informed Members that the applicant and his representative had indicated that they would not attend the meeting. She then invited PlanD's representative to brief Members on the review application.

5. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TMYLW, PlanD, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10504 (the Paper).

[Mr Lincoln L.H. Huang, Mr Franklin Yu and Ms Karen P.Y. Chan arrived to join the meeting during the presentation.]

6. As the presentation of PlanD's representative was completed, the Chairperson invited questions from Members.

7. The Chairperson and a Member raised the following questions:

- (a) whether the applicant had submitted any written representations in support of the review application;
- (b) whether the Drainage Services Department (DSD) required the applicant to submit drainage proposal in support of the current application;
- (c) details of non-compliance with approval conditions under the previous planning permission; and

- (d) noting that the application site (the Site) was occupied for warehouse use without valid planning permission, whether it was an unauthorised development.
8. Mr David Y.M. Ng, DPO/TMYLW, made the following responses:
- (a) the applicant had not submitted any written representations in support of the review application;
 - (b) a drainage proposal was submitted in the current application. However, the applicant had yet to address the comments of the Chief Engineer/Mainland North (CE/MN), DSD on the drainage aspect;
 - (c) the applicant did not comply with the approval conditions of the previous planning application No. A/YL-TYST/738, including the implementation of landscape proposal, and submission and implementation of both drainage and fire services installations (FSIs) proposals; and
 - (d) the Site was subject to investigation by the Planning Authority. Should there be sufficient evidence to prove that the use on the Site constituted an unauthorised development under the Town Planning Ordinance, enforcement action would be taken.
9. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application. The Chairperson thanked DPO/TMYLW, PlanD for attending the meeting. He left the meeting at this point.

[Ms Sandy H.Y. Wong arrived to join the meeting at this point.]

Deliberation Session

10. Members generally considered that no strong justification had been put up by the applicant, and that there was no major change in the planning circumstances since the rejection of the application by RNTPC on 21.9.2018.

11. After deliberation, the Board decided to reject the application on review for the following reasons:

- “(a) the applicant fails to demonstrate that the proposed development would not cause adverse drainage impact on the surrounding area; and
- (b) previous planning permission for the same proposed use granted under application No. A/YL-TYST/738 was revoked due to non-compliance with approval conditions. Approval of the application would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-KTN/602

Proposed Temporary Shop and Services (Motor Vehicle Showroom) with Storage of Vehicles/Vehicles Parts and Ancillary Offices Use for a Period of 3 Years in “Village Type Development” Zone, Lots 457(Part), 458(Part) and 465 S.A(Part) in D.D. 109 and Adjoining Government Land, Kam Tin Road, Kam Tin, Yuen Long

(TPB Paper No. 10505)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

12. The following government representative and representatives of the applicant were invited to the meeting:

Planning Department (PlanD)

Mr Tom C.K. Yip - District Planning Officer/Fanling, Sheung
Shui & Yuen Long East
(DPO/FS&YLE), PlanD

M&D Planning and Surveyors Consultant Ltd

Mr Andy Yiu]
Mr Leo Wong] Applicant's representatives
Mr Tang Ying Yue]
Mr Tang Hon Sang]

13. The Chairperson extended a welcome to the PlanD's representative and the applicant's representatives, and briefly explained the procedures of the review hearing. She then invited PlanD's representative to brief Members on the review application.

14. With the aid of a PowerPoint presentation, Mr Tom C.K. Yip, DPO/FS&YLE briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10505 (the Paper).

15. The Chairperson then invited the applicant's representatives to elaborate on the review application. Mr Tang Hon Sang, who was the Manager of Wing Lung Wai, made the following main points:

- (a) the applicant would satisfy the requirements imposed by relevant government departments;
- (b) the Site was zoned "Village Type Development" ("V"). However, the Site was held under the ownership of "Tso / Tong". Given consensus among the

villagers would be difficult to be reached, it was unlikely that the Site could be developed for Small Houses to satisfy the need of the villagers; and

- (c) the existing condition of the Site was not satisfactory. The approval of the application would enable the applicant to find a tenant and hence improving the site condition with better management. In addition, the living condition of villagers could also be improved through rental income from the Site.

16. As the presentations from PlanD's and the applicant's representatives had been completed, the Chairperson invited questions from Members.

Planning Intention

17. The Chairperson and some Members raised the following questions:

- (a) whether the situation of having commercial activities in areas zoned "V" along Kam Tin Road was desirable from planning point of view; and
- (b) it was noted from the Paper that other commercial, community and recreational uses in "V" zone might be permitted on application to the Board. In considering those applications, whether the applicant should demonstrate the proposed use was to serve the needs of local villagers.

18. In response, Mr Tom C.K. Yip, DPO/FS&YLE, made the following main points:

- (a) areas along Kam Tin Road were zoned "V" with planning intention for Small House development. It was however noted that there would be demand of commercial facilities for villagers. As such, selected commercial and community uses serving the needs of the villagers and in support of the village development were always permitted on the ground floor of a New Territories Exempted House (NTEH); and
- (b) in addition, other commercial, community and recreational uses not on the ground floor of a NTEH might be permitted on application to the Board.

Whilst it was not necessary for those uses to serve the needs of the villagers, it would be considered more in line with the planning intention of the “V” zone if the proposed use could serve the needs of the villagers. In addition, in considering applications for permanent development, consideration would be given to whether approval of the application would affect the land available for Small House development, and whether the proposed use would cause adverse impacts on the surrounding environment.

Temporary approval

19. A Member asked whether the applicant could apply for renewal of planning approval after the proposed period of 3 years and whether the subject application should be regarded as a temporary use. In response, Mr Tom C.K. Yip, DPO/FS&YLE said that the applicant could submit a renewal application before expiry of the planning permission. A renewal application would be assessed based on the latest planning circumstances and the criteria listed out in the Town Planning Board Guidelines on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’. Whether there had been any material change in planning circumstances; whether the planning conditions under previous approval had been complied with; and the latest departmental comments were relevant considerations to be taken into account. The Board was under no obligation to renew the temporary approval.

20. In response to a Member’s question on whether the applicant had any plan to relocate the proposed use after 3 years should the application be approved, Mr Tang Hon Sang, the applicant’s representative, said whether the proposed use would be discontinued depended on the planning requirement at that time and whether a better alternative use would be available.

“Tso / Tong”

21. A Member asked whether there was information in relation to the planned use of land held under “Tso / Tong” in the New Territories. In response, Mr Tom C.K. Yip, DPO/FS&YLE said land use planning control and land ownership were separate issues. The use of a piece of land should comply with the land use control on statutory plans. In this case, the Site was zoned “V” on the Outline Zoning Plan primarily intended for development of

Small Houses by indigenous villagers. There would not be a special zoning designated for land held under “Tso / Tong”.

22. In response to a Member’s question on the composition of “Tso / Tong” and the use of income generated, Mr Tang Hon Sang said Wing Lung Wai Community (the Community) was formed under the New Territories Ordinance (Cap. 97). Only male indigenous villagers were entitled to be members of the Community. Income from “Tso / Tong” would be distributed to members annually to improve their living conditions.

The development proposal

23. Some Members raised the following questions to the applicant’s representatives regarding the development proposal:

- (a) details of the proposed vehicle showroom, such as potential operators and investment involved;
- (b) whether the 8m high structure was necessary for vehicle showroom and storage uses and whether the applicant would accept a lower building height (BH) of 5m;
- (c) whether the total number of vehicles to be stored in the Site would be increased for business operation reasons;
- (d) whether the existing structures at the Site would be demolished if planning approval was given;
- (e) noting the Site was held under “Tso / Tong”, whether the applicant had considered a mechanism, such as ballot or points system to utilise the Site for Small House development by its villagers so as to realise the planning intention; and
- (f) why the applicant did not consider other alternatives, such as developing a park for enjoyment of villagers instead of applying for temporary use.

24. In response, Mr Tang Hon Sang, made the following main points:

- (a) the applicant was liaising with some famous motor brands to operate the showroom. Since the future operator would be responsible for the investment of business, he had no information on the amount of investment that might be involved. His concern was mainly on the compliance of safety and planning requirements;
- (b) the proposed BH of 8m was the maximum BH. All uses within the Site would be in line with the planning permission. Whilst a BH of 8m was preferred, he had no comment if approval was given for a BH of 5m;
- (c) the number of vehicles to be stored in the Site would not be increased even if request was received from the future operator;
- (d) the existing structures were in a poor condition. If approval was given, new structures would be built to replace the existing structures;
- (e) the applicant had explored to utilise the Site for Small House development. However, it was infeasible due to strong local objections. Since better alternative options were not available for the time being, the current proposal was the only feasible option. Nevertheless, if there was a change in Government policy allowing development of multi-storey buildings at the Site, the applicant would discontinue the proposed use to conform to the policy; and
- (f) other alternatives, such as developing a park would not be feasible as large amount of construction, management and maintenance cost would be involved.

25. A Member asked whether the proposed 8m high structure would cover the whole Site and whether it would be regarded as a large-scale structure. In response, Mr Tom C.K. Yip, DPO/FS&YLE said the Site area was about 5,310m². According to the application, the

proposed development involved four temporary structures of one to two storeys with a covered area of 4,549m² (about 85% of the Site). The application was assessed based on the information as submitted by the applicant being regard to the planning intention, relevant planning considerations and concerned departmental comments.

Site Circumstances

26. The Chairperson and some Members raised the following questions:

- (a) whether the existing structures within the Site were covered by temporary building permit and the details of existing trees on the Site;
- (b) whether the open storage uses in the surrounding areas, including the one to the east of Kong Tai Road, were temporary in nature and covered by planning permission; and
- (c) details of the Small House demand of Kam Tin area.

27. In response, Mr Tom C.K. Yip, DPO/FS&YLE, made the following main points with the aid of some PowerPoint slides:

- (a) according to the record from the Lands Department, the Site were covered by Short Term Waiver (STW) and Short Term Tenancy (STT) for storage uses. However, the existing structures were erected without approval of the Building Authority under the Buildings Ordinance. There were 47 numbers of existing trees in poor to very good condition within the Site. These existing trees are common species, such as *Ficus microcarpa*, *Bauhinia blakeana* and *Macaranga tanarius*. The trees were planted by the previous operator. As the proposed layout was in direct conflict with the existing trees and felling of all existing trees would be necessary, the Chief Town Planner/Urban Design and Landscape (CTP/UD&L) of PlanD had reservations on the application from landscape planning perspective;
- (b) the surrounding open storage uses were not covered by valid planning

permission. The site to the east of Kong Tai Road was for open storage of vehicles, which did not involve sales activities; and

- (c) the number of outstanding Small House applications in Kam Tin area were 116. Since 106ha of land (equivalent to 425 Small Houses) was still available within the “V” zone, it was considered that the available land could meet the outstanding Small House demand of the area.

Planning considerations of shop and services, open storage and covered storage uses

28. The Chairperson and some Members raised the following questions:

- (a) details of the previous applications and whether they were submitted by the same applicant of the current application;
- (b) whether open storage or storage within structures would have less adverse impact from planning point of view;
- (c) whether there were different planning considerations between open storage and the proposed use; and
- (d) whether the proposed vehicle storage area was directly related to the motor vehicle showroom use.

29. In response, Mr Tom C.K. Yip, DPO/FS&YLE, made the following main points with the aid of some PowerPoint slides:

- (a) the Site involved 12 previous applications, including 6 applications at the eastern part and 6 applications at the southwestern part of the Site for temporary open storage of vehicles/vehicle parts/vehicles for sales with/without retail/trading activities and vehicle workshop. Among them, 9 applications were approved for 1 or 3 year(s). Whilst the Site fell within Category 4 area under the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) with the

planning intention to phase out the open storage and port back-up uses, these applications were approved mainly for the reasons that previous approval for similar use had been granted and approval conditions were complied with; no adverse departmental comment; the development was not expected to generate significant adverse environmental impact on surrounding area; no local objection was received; and similar applications in the vicinity had been approved. However, in considering the last two applications No. A/YL-KTN/244 and 245, RNTPC rejected the applications mainly on the grounds that the application was not in line with the planning intention; and previous approvals had been given to allow time to relocate the operation to a suitable location, but there was insufficient information to demonstrate genuine effort had been taken to relocate the operation to other areas. These previous applications were not submitted by the applicant of the current application;

- (b) open storage meant any activities carried out on a site for which the greater part of the site (i.e. generally assumed to be more than 50%) was uncovered and used for storage purposes. In considering the planning implications between open storage and storage within structures, it should be assessed on a case-by-case basis (such as the development proposal, the material to be stored and the surrounding environment). In general, open storage might exert some noise and air impacts on the surrounding area, while storage within structures would involve the erection of more physical structures. However, it would be difficult to generally conclude whether open storage or storage within structures would have less adverse impact. Nevertheless, since the proliferation of open storage activities in the New Territories had led to considerable degradation of the rural environment, the Board promulgated TPB PG-No. 13E setting out the criteria for assessing the planning applications for open storage use and the guidance for making such applications; and
- (c) if the proposed use was for open storage, it would be assessed with reference to TPB PG-No. 13E. Since the subject application was for a temporary motor vehicle showroom with storage of vehicles/vehicle parts and ancillary

office, TPB PG-No. 13E was not relevant.

30. In response, Mr Tang Hon Sang said the proposed vehicle storage area was directly related to the vehicle showroom.

Technical considerations

31. Some Members raised the following questions:

- (a) whether the environmental mitigation measures were proposed in the review stage or s.16 application stage and the enforcement mechanism of these measures;
- (b) the mechanism to ensure the applicant would implement the applied use, instead of other uses not covered by the planning permission;
- (c) if the planning approval was granted and subsequently revoked, whether the proposed structure would be demolished;
- (d) whether it was feasible to impose a planning condition restricting the maximum number of vehicle spaces, or impose such restrictions in the STW; and
- (e) details of the traffic impact of the proposal and comments of the Commissioner for Transport (C for T).

32. In response, Mr Tom C.K. Yip, DPO/FS&YLE, made the following main points with the aid of some PowerPoint slides:

- (a) additional environmental mitigation measures were proposed by the applicant at the review stage. In particular, the applicant confirmed that no vehicle exceeding 5.5 tonnes would enter the Site as suggested and required by the Director of Environmental Protection (DEP). In this regard, DEP has no adverse comment on the review application. Should the application be

approved, DEP recommended an approval condition be imposed to prohibit medium or heavy goods vehicles exceeding 5.5 tonnes to be parked/stored on or enter/exit the Site at any time during the planning approval period. It was clearly stated in the recommended approval conditions that if the approval condition was not complied with during the planning approval period, the approval should be revoked immediately without further notice;

- (b) the Site was now used for storage of vehicles. Should the application be approved, the planning permission was given to the development/use under application. If the applicant used the Site for other development/use which was not covered by the planning permission, it would be subject to enforcement action from the Planning Authority;
- (c) if the planning approval was subsequently revoked, whether the proposed structure on the Site would be demolished might depend on the then conditions of STW/STT and the lease enforcement action of land authority;
- (d) planning permission was granted based on the development scheme submitted by the applicant. However, if the Board considered the number of vehicle spaces was a major concern, it might impose an approval condition restricting the number of vehicle spaces. The relevant conditions could be incorporated in the future STW/STT where appropriate; and
- (e) according to the information submitted by the applicant, the Site was mainly proposed for showroom with storage of vehicles. Most of the vehicles stored at the site were for display purpose without need for moving in and out daily. As such, the major traffic would be generated by the staffs of the showroom and customers with limited traffic flow. C for T had no comment from traffic engineering perspective.

33. In response to a Member's question on whether the proposed planting along the Site boundary was feasible in view of the large site coverage, Mr Tang Hon Sang said the future landscape proposal would comply with the requirements of the relevant department.

34. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant. The Chairperson thanked the representatives from PlanD and the applicant for attending the meeting, and they left the meeting at this point.

[Dr Frankie W.C. Yeung arrived to join the meeting and Mr Philip S.L. Kan left the meeting during the question session.]

[The meeting was adjourned for a short break of 10 minutes.]

Deliberation Session

35. The Chairperson said that the RNTPC decided to reject the application at s.16 stage mainly on the adverse environmental impact and the development was not in line with the planning intention of the “V” zone. Since the applicant had proposed environmental mitigation measures and DEP had no adverse comment on the review application, it was considered that the environmental issue had been addressed. In considering the review application, Members could take into account whether the proposed use was not in line with the planning intention even on a temporary basis; and whether the proposal was compatible with the surrounding environment.

36. At the request of the Chairperson, Mr Raymond K.W. Lee, Director of Planning, explained that the applied use under the subject application was neither a Column 1 nor Column 2 use of the “V” zone. To allow more flexibility in the use of land, there was a provision for planning application for temporary uses not exceeding three years in the covering Notes of the OZPs for the rural areas. While open storage use in the subject site was not encouraged, approval of the planning application for temporary use might improve the local environment via imposition of planning conditions. For example, the existing trees at the Site were planted under the approval conditions of the previous permission.

37. In response to a Member’s enquiry, Mr Raymond K.W. Lee, Director of Planning, explained that the STW at the Site was mainly for storage of vehicles, vehicle parts, and building materials. Should the planning application be approved, the applicant would need to

apply to the District Lands Office for modification of the STW/STT conditions. In terms of planning enforcement, record indicated that structures were identified at the Site in the freezing survey conducted by PlanD in 1990s. Nevertheless, whether appropriate enforcement action under the Town Planning Ordinance could be instigated would be subject to collection of sufficient evidence to demonstrate that unauthorised development had been undertaken.

38. A Member pointed out that approval of the application, even on a temporary basis, would result in a reduction of the land available within the “V” zone to meet the Small House demand in the area. Another Member concurred.

39. Members in general did not support the application and considered the application was not in line with the planning intention of the “V” zone with the following views:

- (a) the applicant had no intention to utilise the Site for Small House development. Should the application be approved, the applicant would have less incentive to develop Small House at the Site to realise the planning intention;
- (b) the proposed office and vehicle showroom use with a large site coverage and 8m high structures were not compatible with the surrounding environment;
- (c) the applied use of such large development scale did not aim at serving the needs of the local villagers; and
- (d) the ‘temporary’ nature of the applied use was in doubt in view of the large development scale.

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

- “(a) the development is not in line with the planning intention of the “V” zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by the Government projects. Land within this zone is primarily

intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and

- (b) the scale of the proposed development is excessive and not compatible with the developments in the surrounding area.”

[Mr David Y.T. Lui left the meeting at this point.]

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-NSW/250

Proposed Petrol Filling Station with Sales Office in “Undetermined” Zone and an area shown as ‘Road’, Lots 999 S.E (Part), 1001 S.A RP (Part), 1002 S.A RP (Part) and 1327 RP (Part) in D.D. 115 and Adjoining Government Land, Au Tau, Yuen Long
(TPB Paper No. 10506)

[The meeting was conducted in Cantonese]

Presentation and Question Sessions

41. The following government representative and representatives of the applicant were invited to the meeting:

Planning Department (PlanD)

Mr Tom C.K. Yip - District Planning Officer/Fanling, Sheung Shui & Yuen Long East (DPO/FS&YLE), PlanD

Gold Asset Development Ltd.

Mr Ku Kin Pong]

Ms Tso Yee]

Ms Leung Chui Nam]

Ms Yip Man Li]

Prudential Surveyors]

International Ltd.] Applicant's Representatives

Mr Leo S.D. Cheung]

Mr Ken K.O. Fong]

Consultants]

Mr Chong Kai Man]

Ms June K.S. Leung]

Mr Michael R.A. Tse]

42. The Chairperson extended a welcome to the PlanD's representative and the applicant's representatives, and briefly explained the procedures of the review hearing. She then invited PlanD's representative to brief Members on the review application.

43. With the aid of a PowerPoint presentation, Mr Tom C.K. Yip, DPO/FS&YLE briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10506 (the Paper).

44. The Chairperson then invited the applicant's representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr. Michael R.A. Tse and Mr Leo S.D. Cheung, the applicant's representatives made the following main points:

- (a) five petrol filling stations (PFSs) could be found in the Yuen Long Town Centre area. They were all located to the south of Castle Peak Road and were built in 1980s. With increased population and traffic demand since 1980s, the proposed PFS to the north of Castle Peak Road was a good location to serve the eastbound traffic of Castle Peak Road;

- (b) the application site (the Site) was located in the southwestern corner of the “Undetermined” (“U”) zone and could be integrated with the future development with good planning. PFSs were often found at locations in close proximity to residential, commercial and industrial developments;
- (c) PFS was a long-term investment in view of the high capital cost. In general, a 21-year term would be granted for most PFS on government land. Whilst some previous approvals were given for 5 years or 7 years, these PFSs could come into operation within a short period with essential facilities already available on the sites. For the subject site, the applicant would be required to submit an application to the Lands Department (LandsD) for Short-term Waiver (STW), which was estimated to take about 2 years to complete the process. In addition, the construction of PFS would take 1 year. In other words, if a 5-year approval was granted, the PFS could only operate for about 2 years, which was not financially viable;
- (d) the Competition Commission’s Report on Study into Hong Kong’s Auto-fuel Market 2017 pointed out that only 6 new PFSs were provided from 2005 to 2015. However, the increase of fuel demand was about 50%. The Study recommended that the Government should enable more sites for PFS use to be tendered and / or converted. The current proposal was in line with the recommendation to enable more competition;
- (e) whilst the Housing Department (HD) did not support a temporary approval of 10 years as the estimated land availability date of the Site was expected to be 2022/23, the proposed housing development at the “U” zone would likely involve resumption of private lots as more than 90% of area within the “U” zone were private land. With reference to the experiences of Kwu Tung North/Fanling North New Development Area, the implementation of such a large-scale development would take more than 10 years;
- (f) a proposed columbarium development within the same “U” zone was approved by the Town Planning Appeal Board on 14.11.2017 on

consideration that although the land use review had been carried out for many years, it was still ongoing and the Board was unable to provide particulars as to the progress of this land use review; and no moratorium was imposed on the subject “U” zone with 11 temporary or permanent planning applications approved by the Board;

- (g) there was no detailed proposal for housing development at this stage. The Site occupied only about 0.4% of the area in the subject “U” zone, which would not adversely affect any potential of future development;
- (h) the Site had not been mentioned as a potential site for housing development in the 2018 Policy Address nor the Legislative Council paper in 2018. It was therefore considered that the Site was not accorded high priority for the implementation of the proposed public housing development;
- (i) the subject application was a planning gain for the Government, land owner and community since it could make the best use of the Site for PFS development to serve the community; and
- (j) the proposed 10-year term for PFS development would provide flexibility for future public housing development.

45. As the presentations from PlanD’s and the applicant’s representatives had been completed, the Chairperson invited questions from Members. Ms Sandy H.Y. Wong declared that she was a Member of the Competition Commission which was mentioned by the applicant’s representatives in their presentation. Members agreed that her interest was indirect and she should be allowed to stay at the meeting.

Temporary approval and financial viability

46. Some Members raised the following questions:

- (a) whether the proposal was financially viable in view that a number of PFSs were located along Castle Peak Road in Kam Tin, Pok Wai and Fairview

Park to serve the eastbound traffic;

- (b) whether the applicant would implement the proposal if a shorter approval period of 5 year was granted; and
- (c) the planning considerations of PlanD's recommendations on granting a temporary approval of 5 years and whether future renewal of the planning permission would be recommended upon expiry of the temporary approval.

47. In response, Mr. Michael R.A. Tse, the applicant's representative, made the following main points:

- (a) the proposed PFS was near to the Yuen Long town centre. There were many existing and future developments such as Grand YOHO to the north of Castle Peak Road. The proposed PFS could serve those developments. Since the proposed PFS could be directly accessed from Castle Peak Road, it would be welcomed by vehicle users. In addition, an oil company proposed to operate a PFS at the Site in 1997, hence he considered the Site would be financially viable for PFS use; and
- (b) as mentioned in the presentation, the negotiation of STW with LandsD and the construction work would take a total of 3 years. If a 5-year approval was granted, the actual operation period would be about 2 years. The applicant would consider operating a PFS itself; or sell/lease the land to an oil company to operate. However, some oil companies would normally not consider operating a PFS for only 2 years. The financial viability appeared to be low as a large amount of investment would be involved.

48. In response, Mr Tom C.K. Yip, DPO/FS&YLE said that the recommendation on granting a 5-year approval had taken into consideration the impact on the future use of the land and the justifications submitted by the applicant. Whilst the Site was situated within a potential public housing site with an initial estimated land availability date in 2022/23, the applicant had submitted various technical assessments in support of the application. Concerned departments had no adverse comment on the application. Regarding financial

viability issue, it should be rested with the applicant to decide whether they would pursue the proposal. As for the renewal of planning permission, it was stated in the Paper that the long-term planning of the Site would be for public housing development and the Site might be resumed for public housing development subject to the findings of the technical feasibility study and the land use review of the area. In this regard, it was stated in the recommended advisory clauses in the Paper (Annex N) that the approval period of 5 years was imposed in order not to jeopardise the long-term planning intention of the “U” zone and the applicant should be reminded that the land use for the “U” zone covering the Site was subject to comprehensive review, and the Site might be required for long-term development before expiry of the planning permission. As such, the applicant should not have a high expectation that the planning permission would be renewed in future.

49. In response to a Member’s question on why the negotiation of STW would require 2 years, Mr Leo Cheung Sing Din, the applicant’s representative, said that based on past experience, it was anticipated that process would take 2 years due to a large amount of cases handled by LandsD.

Land use compatibility

50. The Chairperson and some Members raised the following questions:

- (a) details of the future development of the subject “U” zone and how the application might affect the future public housing and other developments within the “U” zone; and
- (b) information related to the traffic data and the usage rate of other PFSs in the area which would be useful to help assessing the number of PFSs required in Yuen Long, as well as the overall planning of PFS.

51. In response, Mr Tom C.K. Yip, DPO/FS&YLE, made the following main points with the aid of some PowerPoint slides:

- (a) the subject “U” zone, with an area of about 26 ha, was proposed for public housing development and other supporting facilities. According to the Hong

Kong Planning Standards and Guidelines (HKPSG), there was no specific numerical separation requirement for PFS development, such as minimum distance to sensitive receivers. Although PFS could be co-existed with residential use and other facilities, the traffic and environmental impacts of the PFS on the surroundings should be assessed, and it might impose constraints to the design of future developments. For instance, the proposed run in/out might affect the access arrangement of the future public housing development. In addition, a minimum separation of 4.25m to 12m should be maintained from the PFS to adjacent buildings based on Fire Services Department's advice. Whether these constraints could be addressed would be subject to the future development proposal of the "U" zone;

- (b) there was no information available on hand on the usage rate of PFSs and traffic data in Yuen Long district. As mentioned in the HKPSG, the need for PFS could not be realistically quantified. In planning of new development areas, concerned departments would be consulted to ascertain the anticipated demand and to reserve suitable site for PFS development. The number of PFS required depended on the anticipated population growth of the area and volume of traffic; and
- (c) as for the overall planning of PFS, there were 181 PFSs in Hong Kong in 2017 and the Environmental Bureau (ENB) considered the existing PFS sites could meet the market demand for auto-fuel. Given the scarcity of land in Hong Kong, the different needs of the community would need to be considered in deciding whether more land should be allocated to PFS use. ENB would work with the relevant government departments to monitor the possible need for more PFS sites. In the subject application, ENB was consulted and they had no comment on the need for the proposed PFS at the Site. Notwithstanding that the need for PFS could not be realistically quantified, planning applications for PFS should be assessed with reference to relevant factors including land use compatibility, traffic, environmental and fire safety considerations, as in the subject planning application. As the Site was readily accessible to vehicles and relevant technical assessments were accepted by concerned departments, PlanD had no objection to the granting of

a temporary approval for 5 years for the application upon review.

52. In response, Mr. Michael R.A. Tse, the applicant's representative supplemented that a PFS site at Tong Yan San Tsuen was put up for tender for a 21-year term and the tender price was about HK \$200 million, which showed that the demand of PFS in Yuen Long district was high.

Technical considerations

53. The Chairperson and some Members raised the following questions:

- (a) whether the proposed PFS would affect the traffic of Castle Peak Road;
- (b) the arrangement of cycle track and footpath reprovisioning; and
- (c) whether the proposal would affect the nullah to the west of the Site and whether there was any revitalisation plan for the nullah.

54. In response, Mr Tom C.K. Yip, DPO/FS&YLE, made the following main points with the aid of some PowerPoint slides:

- (a) according to the submission from the applicant, 4 spaces for filling and 4 spaces for waiting would be provided within the Site. The traffic impact assessment (TIA) submitted by the applicant concluded that the eight spaces provided were adequate and would not cause adverse traffic impact on Castle Peak Road, and the Commissioner for Transport had no adverse comment on the TIA;
- (b) the applicant proposed to re-align the section of existing cycle track and footpath along Castle Peak Road within the Site by shifting them northward and converting part of the existing amenity area on the street pavement for the realigned cycle track and footpath. The applicant would be responsible for the design and construction of the proposed realigned cycle track/footpath and the pavement planting area for handing over to the Government for future

management and maintenance upon completion and relevant departments had no adverse comment on the proposal; and

- (c) the open nullah to the west of the Site was known as Yuen Long Bypass Floodway. There was no plan to revitalise the nullah at this stage. Since the nullah was located to the south of Mai Po Nature Reserve with ecological value, relevant approval condition on submission and implementation of a drainage proposal was recommended such that necessary measures could be implemented to prevent disturbance or water pollution to the nearby nullah, should the application be approved.

55. The Chairperson and some Members raised the following questions to the applicant's representatives:

- (a) the time required for reinstatement of the Site upon cessation of the operation of the PFS;
- (b) whether the cycle track and footpath reprovisioning would be implemented together with the construction of PFS; and
- (c) the land lease entitlement of the Site.

56. In response, Mr Michael R.A. Tse and Mr Leo S.D. Cheung made the following points:

- (a) the reinstatement of the Site could be finished within 3 to 6 months;
- (b) the reprovisioning of cycle track and footpath would be monitored under the approval condition and be implemented in parallel with the construction of the PFS; and
- (c) the private lots owned by the applicant were Old Schedule Agricultural lots. The applicant would apply for STW for non-agricultural temporary structures.

57. As Members had no further question to raise, the Chairperson said that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in the absence of the applicant. The Chairperson thanked the representatives from PlanD and the applicant for attending the meeting, and they left the meeting at this point.

[Mr Andy S.H. Lam, Mr Stephen H.B. Yau, Mr K.K. Cheung and Mr Thomas O.S. Ho left the meeting during the question session.]

Deliberation Session

58. The Chairperson said that the “U” zone was one of the 26 potential housing sites for public housing development as announced in the 2017 Policy Address. Approval of the application for a term of 10 years might pose constraints on the potential public housing development within the same “U” zone. In addition, the private land owned by the applicant was Old Schedule Agricultural lots carrying no building entitlement. The applicant’s representatives also indicated that the financial viability of operating the proposed PFS was low if approval was given for 5 years. Members might wish to consider the application taking into account the above factors.

59. In response to a Member’s question on whether the proposal was in conflict with the future public housing development, Mr Raymond K.W. Lee, Director of Planning, explained that it was difficult to conclude at this stage whether the proposed PFS would be in conflict with the future public housing development in view of the large area of the “U” zone. However, as pointed out by DPO/FS&YLE, the proposal might pose design constraints on the future development of the “U” zone.

60. Some Members noted that there was a clear time table for housing development of the subject “U” zone as revealed in the comments of the HD, and approval of the application would pose constraints on the future development of the “U” zone.

61. Other Members pointed out that the proposed PFS, which would involve not only heavy investments, but also application of STW, construction and reinstatement works, was not a facility that could be commenced and decommission easily. A short-term approval of 5

years was therefore not supported. Another Member considered re-provisioning of the existing permanent cycle track and footpath to cater for a temporary use was undesirable.

62. A Member pointed out that as a technical feasibility study would be conducted for this “U” zone, the demand of PFS could be ascertained in the study and the location of PFS, if required, could be integrated with the future development of the “U” zone,. In addition, through comprehensive planning of the “U” zone, other issues such as the cycle track and footpath arrangement could also be addressed. Some other Members agreed.

63. Members generally considered that the review application should be rejected as the proposal would pose undue constraint on the overall planning of the “U” zone, which was intended for public housing development. Members also considered that a shorter approval period of 5 years was unrealistic in view of the investment involved, the requirement for re-provisioning of the cycle track and footpath and the time required before the proposed PFS could come into operation. Approving the proposed PFS on a temporary basis might also give rise to an expectation that the approval would be renewed upon its expiry.

64. After further deliberation, the Committee decided to reject the application on review for the following reasons:

- “(a) the proposed petrol filling station is mainly located within an area zoned “Undetermined” which is being comprehensively reviewed for public housing development. Approval of the proposed development would pose undue constraint on the overall planning of the “Undetermined” zone; and
- (b) in view of the cost, works and time required before the proposed petrol filling station could come into operation, a temporary approval was considered not appropriate.”

[Mr Alex T.H. Lai and Ms Sandy H.Y. Wong left the meeting during the deliberation session.]

General

Agenda Item 6

[Open Meeting]

Proposed Amendments to the Definitions of Terms Used in Statutory Plans, Board Use Terms and Master Schedule of Notes to Statutory Plans
(TPB Paper No. 10509)

[The meeting was conducted in Cantonese]

65. The following representatives from the Planning Department (PlanD) were invited to the meeting:

- | | |
|---------------------|--|
| Mr Kevin C.P. Ng | - Chief Town Planner/Town Planning Board (CTP/TPB), PlanD |
| Mr Stephen K.S. Lee | - Senior Town Planner/Town Planning Board (STP/TPB), PlanD |

66. The Chairperson extended a welcome and invited PlanD's representatives to brief Members on the Paper. With the aid of a PowerPoint presentation, Mr Kevin C.P. Ng, CTP/TPB, PlanD briefed Members on the background, proposed amendments to the Definitions of Terms used in Statutory Plans (DoT), Board Use Terms (BUT) and Master Schedule of Notes to Statutory Plans (MSN), as detailed in TPB Paper No. 10509 (the Paper).

67. As the presentation of PlanD's representative was completed, the Chairperson invited questions and comments from Members.

Art Studio

68. The Chairperson and some Members raised the following questions and comments:

- (a) whether and how the proposed amendment to the definition of ‘Art Studio’ would be more relaxed in allow greater flexibility in the types of uses / activities of art studio;
- (b) the definition of ‘Art Studio’ seemed to refer only to premises used as a working place for art creation / production. However, since artists might use the venue to provide hobby classes, gallery or teaching art subjects for performance, whether those operations could be allowed in industrial buildings; and
- (c) whether there was any definition of “art” or “subject of art”. If there was no clear definition, it might cause difficulties for enforcement action.

69. Mr Kevin C.P. Ng, CTP/TPB, PlanD, made the following responses:

- (a) on 16.6.2017, the Town Planning Board (the Board) agreed to the amendments of the MSN to incorporate “Art Studio (excluding those involving direct provision of services or goods)” as an always permitted use for industrial and industrial-office buildings in the “Industrial” (“I”) zone, and Schedule II of the “Residential (Group E)” (“R(E)”) and “Other Specified Uses” annotated “Business” (“OU(B)”) zones to support art development and optimise the use of industrial floor space. In the previous amendment, the venues for performance and rehearsal, which might attract a large number of visitors, were excluded from the definition of “Art Studio (excluding those involving direct provision of services or goods)” due to fire safety reasons. Upon further discussion with relevant Bureaux/Departments including the Fire Services Department (FSD) and Home Affairs Bureau (HAB), it was considered that rehearsal venues for the use of operator, owner and tenant(s) of the premises would be acceptable since it would not involve activities attracting visiting members of the general public;
- (b) FSD considered that uses that would attract a large number of visiting members of the public (‘visitors’) due to direct provision of services and goods, such as venue for art hobby classes or gallery, should not be permitted

as of right in the industrial buildings from fire safety point of view. These venues would normally be regarded as a 'Place of Recreation, Sports or Culture' use which was a Column 2 use under the "I" zone, Schedule II of "R(E)" and "OU(B)" zones. Operators might apply for planning permission for such uses and the fire safety issue would be assessed in considering the planning application. As for premises to be used for teaching art subjects for performance, since the major use would be considered as a teaching venue, it would be regarded as a type of 'School' use; and

- (c) there was no definition of "art" or "subject of art" in planning terms. If enforcement action was required, relevant bureau/department (e.g. HAB) would be consulted when necessary.

70. The Secretary supplemented that the use term of 'Art Studio (excluding those involving direct provision of services or goods)' was only found in industrial related zoning such as "I", "R(E)" and "OU(B)" zones. It was for fire safety reason that the use had to be restricted to those activities that would not attract a large number of visitors to the industrial buildings. As such, the intention of that term was to provide a working place for the creation of paintings, sculptures, pottery and other art objects and as a venue for rehearsal for art performance for the own use of the operator, owner and tenant(s) of the premises. As for other uses / activities such as providing hobby classes, gallery or teaching art subjects for performance, they would be regarded as 'Place of Recreation, Sports or Culture' or 'School', which were always permitted within "Commercial", "Government, Institution or Community" and the lower floors of a composite building in "Residential (Group A)" ("R(A)") zones. A Member considered the proposed use could strike a balance between fire safety requirements and supporting art development.

71. In response to a Member's request for clarification, the Chairperson suggested and Members agreed that the Remarks of the DoT should specifically state that the premises could not be used for provision of rehearsal facilities for any party other than the operator, owner and tenant(s) of the premises so as to better reflect the intention. The definition of 'Art Studio (excluding those involving direct provision of services or goods)' would be revised as follows:

“any art studio which would not involve uses / activities that would attract visiting members of the general public by providing direct services or goods, such as hobby classes, seminars and sales of goods, or providing rehearsal facilities for any party other than the operator, owner and tenant(s) of the premises.”

Telecommunications Radio Base Station (RBS)

72. In response to some Members’ questions on the safety of RBS and whether a large amount of RBSs at the same location would cause adverse impact, Mr Kevin C.P. Ng, CTP/TPB, PlanD said that mobile operators were required to obtain approvals from the Communications Authority (“CA”) for operation of RBS. The CA would access the application by adopting the non-ionizing radiation limits set by the International Commission on Non-ionizing Radiation Protection (ICNIRP) as the approval criteria for RBS. In vetting the applications, the CA would also take into account the total radiation level of all RBSs installed at the same location to ensure that the total radiation level complied with the ICNIRP before granting approval for those applications.

District Health Centre

73. A member pointed out that the Chinese translation of health centre in the DoT should be consistent.

Market

74. Some Members raised the following questions:

- (a) whether the proposed amendment to subsume ‘Market’ under ‘Shop and Services’ would affect the provision of small commodity stalls found in traditional market; and
- (b) market included traditional wet market and flea market. Whether the proposal to subsume ‘Market’ under ‘Shop and Services’ would affect the public perception of market.

75. Mr Kevin C.P. Ng, CTP/TPB, PlanD, made the following responses:

- (a) the proposed amendment would not restrict the operation mode and type of market, but to allow greater flexibility for its provision in various land use zones; and
- (b) whilst 'Market' was proposed to be subsumed under 'Shops and Services', the term was retained in the DoT, which included wet market and flea market.

76. After deliberation, the Board agreed to:

- (a) the proposed revisions to DoTs or BUTs in Annexes A, B, C, E and F of the Paper subject to the amendments to the Remarks of the DoT for 'Art Studio' as set out in paragraph 71 above;
- (b) the proposed amendments to MSN as detailed in Annex D of the Paper; and
- (c) the proposed arrangement as set out in paragraph 3.9 of the Paper.

77. Members noted that revision to the Notes of individual Outline Zoning Plan to incorporate the amendments to the MSN as detailed in Annex D of the Paper would be made when opportunity arose.

78. The Chairperson said that after the proposed amendments were endorsed by the Board, a press release would be issued to promulgate the amendments to the public for information. The revised MSN, DoT and BUT would be uploaded to the Board's website.

79. The Chairperson thanked PlanD's representatives for attending the meeting. They left the meeting at this point.

Procedural Matters

Agenda Item 7

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Mong Kok Outline Zoning Plan No. S/K3/31

(TPB Paper No. 10508)

[The meeting was conducted in Cantonese]

80. The Secretary reported that the proposed amendments mainly involved the revision of the building height restrictions (BHRs) for various development zones taking into account the Court's rulings on the judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) and to take forward the recommended development scheme formulated under the 'Planning and Design Study on the Redevelopment of Government Sites at Sai Yee Street and Mong Kok East Station – Feasibility Study' (the SYS Study). The following Members had declared interests on the item for owning properties in the Mong Kok area; and/or having affiliation/business dealings with Masterplan Limited (the consultant of REDA in JR), the Institute of Future Cities (IOFC) of the Chinese University of Hong Kong (CUHK) (the consultant of the Outline Zoning Plan (OZP) review), Ove Arup & Partners Hong Kong Limited (Arup), BMT Asia Pacific Ltd (BMT) and/or AGC Design (AGC) (the consultants of the SYS Study) and /or Ms Mary Mulvihill (R3/C16):

- | | |
|---|--|
| Professor S.C. Wong
(Vice-chairperson) | - having current business dealings with Arup and being an traffic consultant of Arup; |
| Mr Ivan C.S. Fu | - having current business dealings with Masterplan Limited, Arup and AGC; |
| Mr Thomas O.S. Ho | - having current business dealings with Arup, and his firm having past business dealings with BMT; |

- | | | |
|------------------------|---|---|
| Mr K.K. Cheung |] | their firm having current business |
| Mr Alex T.H. Lai |] | dealings with Arup and AGC, and hiring Ms Mary Mulvihill (R3/C16) on a contract basis from time to time; |
| Mr Franklin Yu | - | having past business dealings with Arup; |
| Mr Stanley T.S. Choi | - | his spouse being a director of a company which owned properties at Nathan Road; and |
| Professor John C.Y. Ng | - | being the Fellow of IOFC, CUHK. |

81. Members noted that Messrs Ivan C.S. Fu and Stanley T.S. Choi had tendered apologies for being unable to attend the meeting. Members also noted that Messrs Thomas O.S. Ho, Alex T.H. Lai and K.K. Cheung had left the meeting. As the item was procedural in nature, Members agreed that the other Members could stay in the meeting.

82. The Secretary briefly introduced the TPB Paper No. 10508.

83. On 13.7.2018, the draft Mong Kok OZP No. S/K3/31 (the Plan) was exhibited for public inspection under section 7 of the Town Planning Ordinance (the Ordinance). A total of 283 representations and 17 comments on the representations were received. Two representations included both supportive and opposing views, and the remaining 281 representations were opposing views with 277 representations objected to the rezoning of the Sai Yee Street site.

84. Since all representations and comments received were of similar nature, the hearing of representations and comments was suggested to be considered in one group collectively by the Town Planning Board (the Board).

85. To ensure efficiency of the hearing, a maximum of 10 minutes presentation time would be allotted to each representer/commenter in the hearing session. Consideration of the representations and comments by the full Board was tentatively scheduled for March 2019.

86. After deliberation, the Board agreed that :

(a) the representations/comments should be considered collectively in one group by the Board itself; and

(b) a 10-minute presentation time would be allotted to each representer/commenter.

Agenda Item 8

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese]

87. There being no other business, the meeting was closed at 1:47 p.m.