

**Minutes of 1256th Meeting of the
Town Planning Board held on 8.10.2021**

Present

Mr Lincoln L.H. Huang

Vice-chairperson

Mr Wilson Y.W. Fung

Mr Stephen L.H. Liu

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Dr Jeanne C.Y. Ng

Professor Jonathan W.C. Wong

Dr Roger C.K. Chan

Dr Venus Y.H. Lun

Mr C.H. Tse

Dr Conrad T.C. Wong

Mr Y.S. Wong

Assistant Director (Environmental Assessment)

Environmental Protection Department

Mr Terence S.W. Tsang

Chief Engineer (Works), Home Affairs Department

Mr Paul Y.K. Au

Director of Lands

Mr Andrew C.W. Lai

Principal Assistant Secretary (Transport 3)

Transport and Housing Bureau

Mr Andy S.H. Lam

Deputy Director of Planning/District
Mr C.K. Yip

Secretary

Absent with Apologies

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

Chairperson

Director of Planning
Mr Ivan M.K. Chung

Dr Lawrence Li

Mr Ricky Yu

In Attendance

Assistant Director of Planning/Board
Ms Lily Y.M. Yam

Chief Town Planner/Town Planning Board
Ms Johanna W.Y. Cheng

Senior Town Planner/Town Planning Board
Ms Katherine H.Y. Wong

Opening Remarks

1. The Vice-chairperson said that the meeting would be conducted with video conferencing arrangement.
2. The Vice-chairperson introduced and welcomed Mr C.K. YIP as the new Secretary of the Town Planning Board.

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1255th Meeting held on 17.9.2021

[The item was conducted in Cantonese.]

3. The draft minutes of the 1255th meeting held on 17.9.2021 would be sent to Members in due course. Subject to any proposed amendments by Members, the minutes would be confirmed.

[Post-meeting Note: The minutes were sent to Members on 14.10.2021 and were confirmed on 15.10.2021 without amendments.]

Agenda Item 2

[Open Meeting]

Matters Arising

[This item was conducted in Cantonese.]

(i) Approval of Draft Outline Zoning Plans

4. The Secretary reported that on 14.9.2021 and 5.10.2021, the Chief Executive in Council approved the draft Cheung Chau Outline Zoning Plan (re-numbered as No. S/I-CC/9) and the draft Pak Lap OZP (re-numbered as No. S/SK-PL/4) respectively under section 9(1)(a)

of the Town Planning Ordinance (TPO). The approval of the draft plans was notified in the Gazette on 24.9.2021 and 15.10.2021 respectively.

(ii) Reference Back of Outline Zoning Plan

5. The Secretary reported that on 14.9.2021, the Chief Executive in Council referred the Approved Clear Water Bay Peninsula North Outline Zoning Plan No. S/SK-CWBN/6 to the Town Planning Board (the Board) for amendment under section 12(1)(b)(ii) of the TPO. The reference back of the approved plan was notified in the Gazette on 24.9.2021.

(iii) New Town Planning Appeal Received

Town Planning Appeal No. 6 of 2021

Proposed Temporary Private Car Park for a Period of 3 Years in “Recreation” Zone,
Lot 1604 S.G RP in D.D. 17, Lo Tsz Tin Village, Tai Po

Application No. A/NE-TK/699

6. The Secretary reported that the application site (the Site) of the appeal was located in Ting Kok, Tai Po and Dr Lawrence W.C. Poon had declared an interest on the item for co-owning with spouse a house in Lung Mei Tsuen, Ting Kok.

7. As the item was to report the receipt of an appeal case and no discussion was required, Members agreed that Dr Lawrence W.C. Poon could stay in the meeting.

8. The Secretary reported that a Notice of Appeal was received by the Appeal Board Panel (Town Planning) (TPAB) on 6.9.2021 against the decision of the Board on 16.7.2021 to reject a review application No. A/NE-TK/699 for deletion of approval conditions (e) and (f) regarding the submission and implementation of a drainage proposal and maintain the Rural and New Town Planning Committee’s decision on 12.3.2021 to approve the application for temporary private car park at the Site for a period of 3 years until 12.3.2024 with the same approval conditions and advisory clauses.

9. Despite the approval conditions (e) and (f) being the subject of appeal, the applicant did not comply with the other approval conditions (d) and (g) which required the provision of

peripheral fencing on the Site and submission of a fire service installations and water supplies proposal for fire-fighting by 12.9.2021. As such, the planning permission was revoked on 12.9.2021 due to non-compliance with the concerned approval conditions.

10. The TPAB informed the Secretary of the Board vide their letter dated 24.9.2021 that the Chairman of the TPAB had directed that the appeal should proceed taking into account the revocation of the planning permission.

11. Members noted that the hearing date of the appeal was yet to be fixed and agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

(iv) Appeal Statistics

12. The Secretary reported that as at 30.9.2021, a total of 12 cases were yet to be heard by the TPAB and decisions of three appeals were outstanding. Details of the appeal statistics were as follows:

Allowed	:	37
Dismissed	:	167
Abandoned/Withdrawn/Invalid	:	208
Yet to be Heard	:	12
Decision Outstanding	:	3
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Total	:	427

[Miss Winnie W.M. Ng and Dr Frankie W.C. Yeung joined the meeting at this point.]

Fanling, Sheung Shui & Yuen Long East District

Agenda Item 3

[Open Meeting]

Review of Application No. A/KTN/74

Temporary Open Storage of Metal Scaffold with Ancillary Rest Room and Tool Room for a Period of 3 Years in “Green Belt”, “Government, Institution or Community” Zones and area shown as ‘Road’, Lot 4 (Part) in D.D. 95, Kwu Tung North, Sheung Shui

(TPB Paper No. 10777)

[The item was conducted in Cantonese.]

Presentation and Question Session

13. The Secretary reported that the application site (the Site) was located in Kwu Tung North and Dr C.H. Hau had declared an interest on the item for owning a property in Kwu Tung North area.

14. As the property owned by Dr C.H. Hau had no direct view of the Site, Members agreed that he could stay in the meeting.

Presentation and Question Sessions

15. The following representative of the Planning Department (PlanD) and the applicant were invited to the meeting at this point:

Mr Anthony K.O. Luk - District Planning Officer/Fanling, Sheung Shui & Yuen Long East (DPO/FS&YLE), PlanD

Mr Hui Man Wei - Applicant

16. The Vice-chairperson extended a welcome and explained the procedure of the review hearing. He then invited PlanD’s representative to brief Members on the review

application.

17. With the aid of a PowerPoint presentation, Mr Anthony K.O. Luk, DPO/FS&YLE, PlanD briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (TPB/the Board), departmental and public comments, and planning considerations and assessments as detailed in TPB Paper No. 10777 (the Paper).

[Messrs K.K. Cheung and Y.S. Wong joined the meeting during PlanD's presentation.]

18. The Vice-chairperson then invited the applicant to elaborate on the review application.

19. Mr Hui Man Wei, the applicant, made the following main points:

- (a) the Site had an area of 820m² and only encroached onto a very small portion of the "Green Belt" ("GB") zone;
- (b) the ingress/egress of the Site of 7.3m-wide, as requested by Transport Department (TD), could be provided. Only one 5.5 tonne-vehicle would enter the Site each day (from 8 a.m. to 6 p.m.), which would not cause traffic impact to the area as compared to that of other surrounding open storage uses;
- (c) all materials on the Site were stored on raised racks and he had neither paved nor filled any land on the Site. Hence, he did not understand why the World Wide Fund for Nature Hong Kong (WWF) had raised objection to the application on such ground;
- (d) the materials stored at the Site would be removed when the Government commenced land resumption for the New Development Area (NDA) scheduled in 2024. The Site should be allowed for the applied use on a temporary basis before the land was resumed;

- (e) he had made an application to the Agriculture, Fisheries and Conservation Department (AFCD) for indoor planting at the Site. The metal scaffolds stored at the Site were for building the racks for indoor mushroom planting; and
- (f) it was unreasonable that he had been prosecuted by the Planning Authority whilst the Board was still processing the subject planning application.

[Mr. Franklin Yu joined the meeting at this point.]

20. As the presentations of PlanD's representative and the applicant had been completed, the Vice-chairperson invited questions from Members.

21. The Vice-chairperson and some Members raised the following questions to the applicant:

- (a) the land ownership of the Site and its rental status;
- (b) the details of the applicant's application to AFCD;
- (c) the applied temporary use and the reasons for the applied duration;
- (d) whether there were any changes in the amount of metal scaffolds stored at the Site in the past four years, and the amount of metal scaffold required for building the planting structures; and
- (e) whether the metal scaffolds stored at the Site could be used for construction of other building structures apart from the structure for planting mushroom.

22. Mr Hui Man Wei, the applicant, made the following responses:

- (a) he rented the Site four years ago and had indicated clearly to the land owner that the Site would be used for indoor planting of mushroom. The rental contract would end in two years;

- (b) after he had rented the Site, he made an application to the AFCD for erecting structures for mushroom planting. Whilst awaiting for a response from AFCD, he was prosecuted by the Planning Authority against unauthorized development (UD) involving storage use on the Site;
- (c) the metal scaffolds and other materials stored at the Site were originally intended for the construction of planting structures. However, after knowing that the Site was planned for 'Road' use, he no longer pursued his original plan for using the Site to plant mushroom. Hence, he applied to use the Site for open storage of metal scaffolds and other materials. He would only use vehicles less than 5.5 tonnes and there should have sufficient manoeuvring space within the Site. Two more years was required for him to relocate or sell the materials on the Site;
- (d) a small amount of metal scaffolds was stored at the Site initially four years ago, and more metal scaffolds were stored therein afterwards. The maximum amount of metal scaffolds stored at the Site was about 10,000m, which was intended for erecting planting structures, and there were about 3,000m to 5,000m of metal scaffolds currently left at the Site as part of the metal scaffolds had been sold; and
- (e) the metal scaffolds could be used for constructing all kinds of temporary building structures.

23. The Vice-chairperson and some Members raised the following questions to PlanD's representative:

- (a) the location of the Site and the land use zonings in the vicinity;
- (b) whether the applicant could apply for a shorter duration;
- (c) the traffic concerns on the application and comments from the TD;

- (d) the UD within the Site and the prosecution action being taken; and
- (e) if the applicant had shown genuine effort pursuing his original plan of using the Site for planting mushroom, whether the storage of metal scaffolds within the Site for erecting planting structures still constituted an UD.

24. Mr Anthony K.O. Luk, DPO/FS&YLE, PlanD, made the following responses:

- (a) the Site fell mainly within area shown as 'Road' on the approved Kwu Tung North Outline Zoning Plan No. S/KTN/2 (the Plan). There was an area zoned "GB" to its west and east, and an area zoned "Government, Institution or Community" ("G/IC") zone to its northeast;
- (b) the applicant had applied for temporary open storage for a period of three years. He was free to decide on the duration of the planning permission sought which could be shorter. According to the TPB Guidelines No. 13F, for planning application within NDAs, only existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous Outline Zoning Plans might be given sympathetic consideration until the site was required for implementation of NDA development. The Committee of the Board had not approved any application for new open storage uses in NDAs, since the promulgation of the TPB Guidelines No. 13F in 2020. There was no previous planning permission covering the Site;
- (c) TD was unable to conclude if the application was acceptable as the applicant had not provided sufficient information. TD indicated that the vehicular access should not be less than 7.3m-wide but information on the width of the vehicular access had not been provided. TD also considered that the applicant should demonstrate that there was sufficient manoeuvring space for vehicles within the Site to ensure that vehicles would not queue back to or reverse onto/from the public road outside the Site. The vehicular access between the Site and Ho Sheung Heung Road was about 3.6m to 4.5m wide which only allowed a single lane for two-way traffic. Furthermore, as

there was no pedestrian pavement along the vehicular access, reversing of vehicles from the Site might affect pedestrian safety;

- (d) the Site fell within area shown as 'Road' and planning permission was required from the Board for the temporary open storage use. According to the covering Notes of the Plan, a use or development of any land or building which had existed at the time of gazettal of the first statutory plan and had continued to exist would be tolerated as an existing use. The Site was recorded as being under agricultural use in 1991 when the Kwu Tung Interim Permission Area Plan was gazetted, but the Site was currently used for open storage without planning permission. The current storage use on the Site therefore constituted an UD. An Enforcement Notice (EN) was issued on 28.9.2020 requiring discontinuation of the UD by 28.11.2020. Since the UD had not been discontinued upon expiry of the EN, prosecution action was initiated. The Court's hearing of the case was held on 29.9.2021 and would be held again in December 2021; and
- (e) according to the Notes of the Plan, provision of 'plant nursery' was always permitted on land falling within the boundaries of the Plan. Whether a use would be classified as a 'plant nursery' depended on its scale and operation, and comments would be sought from relevant departments, including the AFCD. Furthermore, construction of building structures on the Site would require permission from Lands Department (LandsD), and the District Lands Officer/North, LandsD advised that the existing structures within the Site were unacceptable under lease.

25. The Vice-chairperson and a Member asked whether there was a definition of 'plant nursery', and the Secretary replied that according to the 'Definitions of Terms' of the Board, 'plant nursery' meant a place where plants were propagated and raised for future planting out or sale. A Member further enquired whether planting mushroom at the Site would be classified as 'agricultural use' or 'plant nursery'. Mr Anthony K.O. Luk, DPO/FS&YLE, PlanD, responded that since the applicant had not provided any information on the purported mushroom planting use which was only first raised at the meeting, it was not possible to categorise the said use based on the available information. Nonetheless, the site inspection

carried out by the Planning Authority in September 2020 revealed that there was only open storage of metal scaffolds within the Site and no planting activities were found. Mr Hui Man Wei, the applicant, supplemented that there was some mushroom planting within a container on the Site.

[Dr Conrad T.C. Wong joined and Messers Alex T.H. Lai and Philip S.L. Kan left the meeting during the question and answer session.]

Deliberation Session

26. The Vice-chairperson invited Members to consider the review application taking into account the planning intention of the area reserved for 'Road', the TPB Guidelines No.13F in that there was no previous approval for open storage use granted for the Site that fell within Kwu Tung North NDA, and the traffic impact.

27. Notwithstanding the applicant's earlier intention for mushroom planting at the Site, Members in general did not support the application as the Site was currently used for open storage and TD had concern on the potential traffic impact of the applied use. Besides, the approval of the application might set an undesirable precedent as there was no previous application approved within the subject area shown as 'Road'.

28. A Member, whilst not supporting the application, expressed concern on the comment about 'destroy first, build later' made in the Paper, as the Site would be developed as a road. With reference to paragraph 10.1.9(a) of Annex A of the Paper, the Secretary said that the comment on 'destroy first, build later' raised by AFCD was made according to the changing site conditions as shown on the aerial photos, and 'destroy first, build later' was not the reason for not supporting the application. A key consideration was that the application did not comply with TPB Guidelines No.13F in that there was no previous approval for open storage granted for the Site within the NDA and new open storage use was generally not encouraged to infiltrate into the NDA.

29. Having noted that the Site would be resumed for road use in 2024, a Member asked whether sympathetic consideration could be given to the application by tolerating the applied use for another one or two years even though there had not been previous planning permission

granted for the Site. The Vice-chairperson said that the criteria in TPB Guidelines No.13F were clear and with good rationale, and the guidelines should be followed unless there were very exceptional circumstances which were not found in the subject application.

30. The Vice-chairperson asked and Members considered that it was not necessary to add a rejection reason on undesirable precedent. To be in line with TPB Guideline No. 13F, the Vice-chairperson further suggested and Members agreed that the suggested rejection reason in paragraph 7.1(b) of the Paper should be amended to clearly indicate that there was no previous approval for open storage granted for the Site and new open storage use was not encouraged to infiltrate into the Kwu Tung North NDA.

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

- (a) the applied use is not in line with the planning intention of the area reserved for 'Road' which is primarily intended for road use. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the applied open storage use does not comply with the Town Planning Board Guidelines No.13F for Application for Open Storage and Port Back-up Uses, in that there is no previous approval for open storage granted for the Site and new open storage use was not encouraged to infiltrate into the Kwu Tung North NDA; and
- (c) the applicant fails to demonstrate in the submission that the applied use would not result in adverse traffic impact.

[Miss Winnie W.M. Ng and Mr Andrew C.W. Lai left the meeting during the deliberation session.]

Procedural Matters

Agenda Item 4

Information Note and Hearing Arrangement for Consideration of Representations and Comments on the Draft Ma Tau Kok Outline Zoning Plan No. S/K10/27
(TPB Paper No. 10776)

32. The Secretary reported that the draft Ma Tau Kok Outline Zoning Plan No. S/K10/27 (the draft OZP) was to take forward the decision of the Metro Planning Committee on the s.12A application No. Y/K10/3. Ove Arup & Partners Hong Kong Limited (ARUP), Wong Tung & Partners Limited and MVA Hong Kong Ltd. (MVA) were three of the consultants of the application and one of the applicant's representatives of the application, Mr Rembert S.K. Lai, was a Council Member of the Hong Kong University of Science and Technology (HKUST). A representation and a comment on representation had been submitted by Ms Mary Mulvihill (R3/C2).

33. The following Members had declared interests on the item:

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| Mr Wilson Y.W. Fung | - | being a Council Member of HKUST; |
| Mr Stanley T.S. Choi | - | being a Council Member of HKUST; |
| Mr Thomas O.S. Ho | - | having current business dealings with ARUP and MVA; |
| Mr K.K. Cheung | - | his firm having business dealings with ARUP; and hiring Mary Mulvihill on a contract basis from time to time; |
| Mr Alex T.H. Lai | - | his former firm having business dealings with ARUP; and hiring Mary Mulvihill on a contract basis from time to time; |

- | | | |
|---------------------|---|--|
| Mr Franklin Yu | - | having past business dealings with ARUP; |
| Mr C.H. Tse | - | his close relative owning a flat in Ma Tau Kok; |
| Miss Winnie W.M. Ng | - | her company owning two properties in Ma Tau Kok; and |
| Dr Conrad T.C. Wong | - | his companies owning five properties in Ma Tau Kok. |

34. Members noted that Miss Winnie W.M. Ng and Mr Alex T.H. Lai had already left the meeting. As the item was procedural in nature, Members agreed that other Members who had declared interests could stay in the meeting.

35. The Secretary briefly introduced TPB Paper No. 10776. On 21.5.2021, the draft OZP was exhibited for public inspection under s.5 of the Town Planning Ordinance. During the two-month exhibition period, three representations were received. The representations were subsequently published for three weeks and two comments were received.

36. In view of the similar nature of the representations and comments, the hearing of all the representations and comments was recommended to be considered by the full Town Planning Board (the Board) collectively in one group. 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 November/December 2021.

37. After deliberation, the Board agreed that:

- (a) the representations and comments should be considered collectively in one group by the Board; and
- (b) a 10-minute presentation time would be allotted to each representer/commenter.

Agenda Item 5

[Open Meeting]

Any Other Business

38. There being no other business, the meeting was closed at 10:30 a.m.