

**Minutes of 989th Meeting of the
Town Planning Board held on 12.8.2011**

Present

Mr. Stanley Y.F. Wong

Vice-Chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr. W.K. Lo

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Ms. Pansy L.P. Yau

Dr. W.K. Yau

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch Chan

Deputy Director of Environmental Protection

Mr. Benny Wong

Assistant Director (2), Home Affairs Department

Mr. Andrew Tsang

Deputy Director (General), Lands Department

Mr. Jeff Lam

Director of Planning

Mr. Jimmy Leung

Deputy Director of Planning/District

Secretary

Miss Ophelia Y.S. Wong

Absent with Apologies

Mr. Thomas Chow

Chairman

Professor Edwin H.W. Chan

Ms. Julia M.K. Lau

Dr. C.P. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Professor S.C. Wong

Mr. Stephen M.W. Yip

In Attendance

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

Chief Town Planner/Town Planning Board/2
Miss H.Y. Chu

Senior Town Planner/Town Planning Board
Ms. Maggie Chin

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 988th Meeting held on 29.7.2011

[The meeting was conducted in Cantonese.]

1. The minutes of the 988th Meeting held on 29.7.2011 were confirmed without amendment.

Agenda Item 2

Matters Arising

[The meeting was conducted in Cantonese.]

- (i) This item was recorded under confidential cover.
- (ii) Proposed Amendments to the Draft Yuen Long Outline Zoning Plan No. S/YL/20 Arising from Consideration of Representations
[Open Meeting. The meeting was conducted in Cantonese.]

2. Members noted that a replacement page (page 1 of Annex III) of the TPB Paper had been table at the meeting. The Secretary reported that on 29.7.2011, the Board, considered the representations and comments in relation to the draft Yuen Long OZP No. S/YL/19 and decided to partially meet Representation No. R1 submitted by the Yuen Long District Council (YLDC) by proposing amendments to the Notes and Explanatory Statement (ES) of the OZP for the “R(E)1” zone with reference to the building design requirements of the ex-Yuen Long Estate site (i.e. YLTL 518) and the West Rail Long Ping Station North development. In this regard, the Board requested the Secretariat to work out the amendments to the Notes and ES of the OZP for the Board’s further consideration.

[Dr. Winnie S.M. Tang left the meeting temporarily at this point.]

3. The Secretary said that with reference to the building design requirements of the YLTL 518 and the West Rail Long Ping Station North development, it was considered appropriate to specify the following building design requirements for the “R(E)1” zone :

- a) a maximum site coverage of 60% for the lowest two floors (the same as YLTL 518) to reduce the bulk of the podium and allow provision of greenery at the ground level, and a maximum site coverage of 30% for the upper residential floors to improve openness over the podium structure. The above proposed site coverage restrictions together with the building height restriction of 85mPD for “R(E)1” sites would be adequate to accommodate the permissible plot ratio of 5;
- b) ancillary car parking spaces, which tended to take up a significant bulk, should be provided at basement level. Strong justifications were required for providing ancillary carpark above ground level; and
- c) non-building area(s) (NBA) with a minimum width of 1.5m be designated from the lot boundaries abutting Wang Yip Street West and Tak Yip Street to create a pleasant pedestrian environment.

4. The Secretary stated that there was provision for application for minor relaxation of the site coverage and NBA requirements. Each application would be considered by the Board on its individual merits.

5. Regarding R1’s suggestion for the provision of street level commercial GFA at the “R(E)1” sites, the Secretary pointed out that the context for the “R(E)1” sites was different from YLTL 518 which was located at the town core and flanked by existing streets with shops. The “R(E)1” sites were more akin to the West Rail Long Ping Station North development in that they were located further away from the town centre. There was no commercial GFA proposed in the West Rail Long Ping Station North development. As compared to YLTL 518, the demand for commercial uses on the “R(E)1” sites was less certain. As such, it would be more appropriate to leave it to the market to decide whether and how much commercial GFA should be provided.

6. The Secretary said that in accordance with the above proposed building design requirements, the proposed amendments to the Remarks in the Notes for the “R(E)1” zone and the proposed amendments to the relevant sections of the Explanatory Statement (ES) of the Plan were shown in Annexes II and III of the TPB Paper on Matters Arising (ii).

7. After deliberation, Members agreed that the proposed amendments to the draft Yuen Long OZP No. S/YL/20 as shown at Annex II of the Paper were suitable for publication for further representation under section 6(C)2 of the Ordinance, and the revised ES at Annex III was suitable for publication together with the proposed amendments.

(iii) Four New Town Planning Appeals Received
[Open meeting. The meeting was conducted in Cantonese.]

Town Planning Appeal No. 8 of 2011

Fulfilment of Approval Conditions in relation to the Application for
Proposed Golf Course and Residential Development
Lots 1520RP, 1534 and 1604 in DD123 and adjoining Government Land,
Nam Sang Wai, Yuen Long
(Application No. A/DPA/YL-NSW/12)

8. The Secretary briefed Members on the background of the Appeal No. 8 of 2011 as follows:

- (a) in September 2010, the applicant submitted a modified Master Layout Plan (MLP), Landscape Master Plan (LMP) and technical reports for fulfilling the approval conditions. In December 2010, the D of Plan informed the applicant that the submitted modified MLP deviated substantially from the approved development scheme and therefore could not be considered in the context of fulfilment of conditions of the planning permission granted. The LMP and the technical reports, which were all based on the modified MLP, also could not be considered in the context of fulfilment of the corresponding conditions;
- (b) the applicant disagreed with the views of D of Plan and sought to refer the dispute to the Board for consideration. On 17.12.2010, the Board

decided that the modified MLP constituted major changes to the approved scheme and noted that the technical reports were considered not acceptable by the relevant departments. The relevant approval conditions could not be regarded as satisfactorily complied with;

- (c) on 27.1.2011, the applicant requested for a review of the Board's decision under s.17 of the Ordinance. As s.17 of the Ordinance applied where an applicant was aggrieved by a decision of the Board to refuse s.16 planning permission or to impose conditions subject to which the Board granted planning permission, there was no provision under s.17 for the applicant to review the Board's decision on fulfilment of planning condition. Legal advice also confirmed that the Board's decision could not be taken for review under s.17 of the Ordinance as the decision did not involve any further exercise of the Board's power under s.16 of the Ordinance; and
- (d) on 8.4.2011, the Board considered the request and noted that there was no provision to review the Board's decision on fulfilment of approval conditions under s.17 of the Ordinance.

9. The Secretary continued to point out that an appeal was received by the Town Planning Appeal Board on 28.6.2011 against the decision of the Board not to review its decision of 17.12.2010 on fulfilment of approval conditions in relation to the subject planning permission.

Town Planning Appeal No. 9 of 2011

Renewal of Planning Approval for

Temporary "Private Garden Ancillary to New Territories Exempted House" for a Period of Three Years in "Green Belt" zone,

Government Land adjoining Lot 595s.A in D.D. 14, Tung Tsz, Tai Po

(Application No. A/NE-TK/337)

10. The Secretary reported that an appeal was received by the TPAB on 25.7.2011 against the decision of the Town Planning Board (TPB) on 13.5.2011 to reject

on review an application for Renewal of Planning Approval for Temporary Private Garden Ancillary to New Territories Exempted House for a period of three years in “Green Belt” zone. The application was rejected by the TPB for the reason that the development was not in line with the planning intention of “Green Belt” 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. The applicant failed to provide strong planning justifications in the submission for a departure from this planning intention even on a temporary basis.

Town Planning Appeal No. 10 of 2011

Temporary Open Storage of Used Vehicles and Vehicle Parts for a Period of 3 Years in “Agriculture” zone, Lots 1011 (Part), 1012 (Part), 1013 (Part), 1014 (Part), 1015 S.A, 1015 S.B (Part), 1015 RP (Part), 1016 (Part) and 1018 (Part) in D.D. 113 and Adjoining Government Land, Pat Heung, Yuen Long
(Application No. A/YL-KTS/522)

11. The Secretary reported that an appeal was received by the Town Planning Appeal Board on 5.8.2011 against the decision of the Town Planning Board (TPB) on 27.5.2011 to reject on review the Application No. A/YL-KTS/522 for temporary open storage of used vehicles and vehicle parts for a period of three years in “Agriculture” (“AGR”) zone. The application was rejected by the TPB for the following reasons :

- (a) the development was not in line with the planning intention of the “AGR” zone which was to retain and safeguard good agricultural land for agricultural purposes. This zone was also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application did not comply with the Town Planning Board Guidelines No. 13E (TPB PG-No. 13E) in that the development was not compatible with the surrounding land uses which were predominantly rural in character with a mixture of cultivated and

fallow agricultural land and vacant/unused land, as well as a large woodland zoned “Conservation Area” and the Tai Lam Country Park located to its further south, there was no previous approval granted at the site, and there were adverse departmental comments and public objections against the application;

- (c) the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

Town Planning Appeal No. 11 of 2011

Temporary Open Storage of Construction Materials (H-Shaped Iron) with Ancillary Workshop for a Period of 3 Years in “Agriculture” and “Village Type Development” zones, Lots 1016 (Part), 1017 (Part), 1029 (Part), 1030 (Part), 1031 (Part), 1032 (Part), 1033, 1034 (Part) and 1035 (Part) in D.D. 113,

Pat Heung, Yuen Long

(Application No. A/YL-KTS/523)

12. The Secretary reported that an appeal was received by the Town Planning Appeal Board on 5.8.2011 against the decision of the Town Planning Board (TPB) on 27.5.2011 to reject on review the Application No. A/YL-KTS/523 for temporary open storage of construction materials (H-shaped iron) with ancillary workshop for a period of three years in “Agriculture” (“AGR”) and the “Village Type Development” (“V”) zones. The application was rejected by the TPB for the following reasons :

- (a) the development was not in line with the planning intention of the “AGR” zone which was to retain and safeguard good agricultural land for agricultural purposes. This zone was also intended to retain

fallow arable land with good potential for rehabilitation. It was also not in line with the planning intention of the “V” zone which was to reflect the existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. No strong planning justification had been given in the submission for a departure from the planning intentions, even on a temporary basis;

- (b) the application did not comply with the Town Planning Board Guidelines No. 13E (TPB PG-No. 13E) in that the development was not compatible with the surrounding land uses which were predominantly rural in character, there was no previous approval granted at the site and there were adverse departmental comments and public objections against the application;
- (c) the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” and “V” zones. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

13. The hearing dates of the above appeals had not yet been fixed. The Secretary would act on behalf of the Board in dealing with the appeals in the usual manner.

Appeal Statistics

14. The Secretary reported that as at 11.8.2011, 26 cases were yet to be heard by the Town Planning Appeal Board. Details of the appeal statistics were as follows:

Allowed	: 27
Dismissed	: 117
Abandoned/Withdrawn/Invalid	: 149
Yet to be Heard	: 26
<u>Decision Outstanding</u>	<u>: 4</u>
Total	: 323

[Dr. Winnie S.M. Tang returned to join the meeting at this point.]

Tuen Mun and Yuen Long District

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-LFS/213

Temporary Open Storage of Containers with Ancillary Container Repair Workshop for a Period of 3 Years in "Residential (Group E)" zone,

Lots 1709 (Part), 1710 (Part), 1711 (Part), 1712 (Part), 1713, 1714 (Part), 1715 (Part), 2276 S.A (Part), 2277 S.A, 2277 S.B (Part), 2278, 2279 S.A, 2279 S.B (Part), 2280 (Part), 2285 (Part), 2286, 2287, 2288, 2289, 2291, 2292, 2294, 2295, 2296 (Part), 2302 (Part), 2305 (Part), 2306, 2310, 2311, 2312, 2313, 2314 S.A (Part), 2314 RP (Part), 2317 (Part), 2318, 2320 (Part), 2321, 2322, 2323, 2324, 2325 S.A, 2325 S.B, 2325 RP, 2326 (Part), 2327 (Part), 2328, 2329, 2344 S.A (Part), 2344 S.B (Part), 2348 (Part), 2349 (Part), 2352 (Part) and 2353 (Part) and Adjoining Government Land in D.D. 129, Lau Fau Shan, Yuen Long

(TPB Paper 8881)

[The meeting was conducted in Cantonese.]

15. The Secretary informed Members that the applicant had indicated that he

would not attend the review hearing. Ms. Amy Cheung, District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), Planning Department (PlanD), was invited to the meeting at this point. The Vice-chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TMYL to brief Members on the application.

16. With the aid of a powerpoint presentation, DPO/TMYL presented the application and covered the following main points as detailed in the Paper:

The Application

- (a) the applicant sought planning permission for temporary open storage of containers with ancillary container repair workshop at the application site for a period of three years under s.16 of the Town Planning Ordinance (the Ordinance). The site fell within the “R(E)” zone of the approved Lau Fai Shan and Tsim Bei Tsui OZP No. S/YL-LFS/7;

Decision of the RNTPC

- (b) on 23.12.2010, the Rural and New Town Planning Committee (the RNTPC) approved the application with a number of conditions. However, in order to monitor the situation on-site, a shorter approval period of one year (instead of three years sought) was granted by the RNTPC mainly on the following grounds:
 - i) the applied use involved container repair activities which would generate environmental nuisance;
 - ii) the Director of Environmental Protection received a water pollution complaint against the site in 2009; and
 - iii) there was an adverse public comment from a nearby resident indicating that the repair workshop was too close to her house;

Nature of the Review

- (c) on 31.1.2011, the applicant applied for a review of the RNTPC’s decision to approve the application for a period of one year, instead of three years sought;

- (d) the justifications put forth by the applicant in support of the review application were detailed in paragraph 3 of the Paper and the main points were:
- i) the applicant had complied with all the approval conditions of the last Application No. A/YL-LFS/197. The applicant also needed more time to comply with the approval conditions of the current application;
 - ii) a public comment was received by the Board at the s.16 application stage requesting the relocation of the container repair workshop away from the commenter's residence, and hence the relevant approval condition (f), i.e. no container repair workshop activity within 50m of the northwestern site boundary was permitted during the planning approval period, was imposed by the Board. To comply with this condition, the applicant had liaised with the commenter and relocated the container repair workshop more than 50m away from the northwestern site boundary. Hence, the public comment had been fully addressed; and
 - iii) DEP's environmental concerns had been addressed by approval conditions (a) to (j). These approval conditions had been complied with by the applicant;

The Site and Its Surrounding Areas

- (e) the site, with an area of about 26,500m², was accessible from Lau Fau Shan Road via an adjoining open storage yard to its west. The site currently being used for the applied use, with the container repair workshop relocated to the western boundary of the site (about 60m away from the northwestern boundary of the site);

Departmental Comments

- (f) the departmental comments were detailed in paragraph 5 of the Paper and

the main points were:

- i) DEP maintained his previous view of not supporting the application because there were sensitive uses in the vicinity and along the access road (Lau Fau Shan Road) and environmental nuisance was expected. It was also clarified that the water pollution complaint in 2009 was against recycling activities at three other lots under planning permission No. A/YL-LFS/188;
- ii) other government departments maintained their previous views of having no adverse comment or no objection to the review application;

Public Comment

- (g) one public comment was received from the same commenter in the s.16 application stage. The commenter expressed gratitude to the Board for requiring the applicant to relocate the container repair workshop 50m away from her residence, and advised that she no longer had any comment on the application since the applicant had committed to her to relocate the workshop;

Planning Considerations and Assessments

- (h) the planning considerations and assessments were detailed in paragraph 7 of the Paper and the main points were:
 - (i) the application was approved by the RNTPC mainly on the grounds that the applied use was not incompatible with the general character of the area which was predominantly occupied by vehicle parks, workshops and open storage yards; the development was in line with the TPB PG-No. 13E in that DEP's concern could be addressed by way of approval conditions, and there was no adverse comment from other concerned government departments; and approval of the subject application was in line with the Committee's decisions on the

previous and similar applications within the subject “R(E)” zone;

- (ii) the one-year approval period was recommended to monitor the situation on-site in view of a public comment received at the s.16 application stage raising concern that container repair activities were being carried out along the northern boundary of the site which was in close proximity to her residential dwelling (less than 10m away). In this regard, the applicant had, since the approval, relocated the container repair workshop southward by over 60m away from the residential dwelling. With the relocation of the container repair workshop by the applicant, the commenter had advised that she no longer had any comment on the application. DEP had also clarified that the water pollution complaint in 2009 was actually against recycling activities at three other lots which was covered by the planning permission No. A/YL-LFS/188);

- (i) PlanD’s views – given the planning considerations and assessments summarised in paragraph 7 of the paper, PlanD had no objection to the review application.

17. As Members had no question on the application, the Vice-chairman thanked Ms Amy Cheung, DPO/TMYL, for attending the meeting. Ms. Cheung left the meeting at this point.

Deliberation

18. The Vice-chairman said that the applicant had addressed the public comment by relocating the container repair workshop some 60m away from the residential dwelling. Members also noted the gratitude expressed by the commenter to the Board for requiring the applicant to relocate the repair workshop.

19. After further deliberation, the Board decided to approve the review application. The planning permission should be valid on a temporary basis for a period of three years

until 23.12.2013, instead of for a period of one year until 23.12.2011 as originally approved by the RNTPC, on the terms of the application as submitted to the Board 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 and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) the stacking height of materials stored within 5m of the periphery of the site should not exceed the height of the boundary fence, as proposed by the applicant, during the planning approval period;
- (d) the stacking height of containers stored within 5m to 10m of the northern periphery of the site should not exceed 3 units, and the stacking height of containers stored at any other location within the site should not exceed 7 units, as proposed by the applicant, during the planning approval period (Plan A-5 of Annex A of the Paper);
- (e) other than ancillary container repair workshop as applied for, no recycling, cleansing, dismantling, repairing or other workshop activity, as proposed by the applicant, was permitted on the site during the planning approval period;
- (f) no container repair workshop activity within 50m of the northwestern site boundary was permitted during the planning approval period (Plan A-5 of Annex A);
- (g) no logistics/freight-forwarding operation was permitted on the site during the planning approval period;

- (h) restriction of vehicle speed within the site to 15km/hr at all times during the planning approval period;
- (i) the paving of the local access road within the site should be maintained at all times during the planning approval period;
- (j) the 2.5m high modified boundary fencing at the western side of the loading/unloading area, and the 6.8m high noise barrier or structures at the boundary fencing erected on the site under Application No. A/YL-LFS/197 should be maintained at all times during the planning approval period;
- (k) no storage of materials or dumping of debris was allowed within 1m of any tree on the site during the planning approval period;
- (l) the existing vegetation on the site should be maintained at all times during the planning approval period;
- (m) the drainage facilities implemented on the site under Application No. A/YL-LFS/197 should be maintained at all times during the planning approval period;
- (n) the implementation of the accepted fire service installations proposals to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.9.2011;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) or (m) was not complied with during the approval period, the approval hereby given should cease to have effect and shall be revoked immediately without further notice;
- (p) if the above planning condition (n) was not complied with by the above 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 Town Planning Board.

20. The Board also agreed to advise the applicant of the following :

- (a) to resolve any land issues 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 site was situated on Old Scheduled Agricultural Lots held under the Block Government Lease upon which no structure was allowed to be erected without his prior approval. Change of use of the subject site would cause a breach of the terms of the Letter of Approval No. M22783 and Modification of Tenancy No. MT/M 14279. The registered owner of the lots concerned should apply to his office to permit structures to be erected or regularize any irregularities on-site, including the seven temporary structures used as site office (converted containers) and site office cum rain shelter as well as the 2.5m high brick wall/noise barrier erected on private land for complying with an approval condition under Application No. A/YL-LFS/197. The occupier was also required to apply to his office for occupation of the government land (3,823m²). If such application was approved, it would be subject to such terms and conditions, including the payment of premium or fees, as might be imposed by the Lands Department. His office did not guarantee right-of-way to the site from Lau Fau Shan Road via the informal track on private land;
- (c) 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;

- (d) 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;
- (e) 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 existing on 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. Rain shelters and containers used as office were considered as temporary buildings and were subject to control under Building (Planning) Regulation Part VII. Formal submission under the BO was required for any proposed new works, including any temporary structure; and
- (f) 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards. Water mains in the vicinity of the site could not provide the standard fire-fighting flow.

[Mr. Andrew Tsang left the meeting at this point.]

Sai Kung and Islands District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/SK-CWBN/15

Proposed Private Hospital with Minor Relaxation of Plot Ratio Restriction from 1.5 to 1.65 in "Government, Institution or Community (5)" zone, Lots 8 s.C RP, 13 s.A, 18RP, 19-20, 22-23, 24 RP, 25-31, 33-51 and 666 in D.D. 227 and Adjoining Government Land, Tai Po Tsai, Clear Water Bay North, Sai Kung (TPB Paper 8887)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

21. Members noted that the following Members had declared interests on this item :

Dr. James C.W. Lau - had current business dealings with the consultant (Ho Tin & Associates Consulting Engineers Ltd.) of the applicant

Ms. Anna S.Y. Kwong - had current business dealings with the consultant (Environ Hong Kong Ltd.) of the applicant

Mr. Fletch Chan - owned two properties in Tseung Kwan O

22. As the properties owned by Mr. Fletch Chan were far from the application site, Members considered that the interest of Mr. Chan was indirect. Members also agreed that the interests of both Dr. Lau and Ms. Kwong were indirect and not substantial. Hence, they could be allowed to stay in the meeting.

23. The following government representatives and the applicant's representatives were invited to the meeting at this point:

- Mr. Wilfred Cheng - District Planning Officer/ Sai Kung & Islands,
(DPO/L&I), Planning Department (PlanD)
- Ms. Erica Wong - Senior Town Planner/Islands (STP/Is), PlanD
- Mr. Ma Kwai Loeng - Senior Engineer/Housing & Planning, New
Territories East (SE/H&P, NTE), Transport
Department (TD)
- Mr. Ian Brownlee] Applicant's
Ms. Wendy Lee] Representatives
Mr. Alan Pun]
Mr. Larry Poon]
Ms. Jenny Mok]

24. The Vice-chairman extended a welcome and explained the procedures of the review hearing. He then invited Ms. Eric Wong to brief Members on the background to the application.

25. With the aid of a Powerpoint presentation, Ms. Erica Wong, STP/Is, presented the application and covered the following main points as detailed in the Paper:

The Application

- (a) on 17.1.2011, the applicant sought planning permission for a private hospital development at the application site (the Site), with minor relaxation of Plot Ratio (PR) restriction from 1.5 to 1.65. The Site fell within an area zoned "Government, Institution or Community (5)" ("G/IC(5)") on the approved Clear Water Bay Peninsula North Outline Zoning Plan (the OZP) No. S/SK-CWBN/4;

Decision of the RNTPC

- (b) on 15.4.2011, the Rural and New Town Planning Committee (the RNTPC) approved the application subject to conditions including

condition (c), i.e. the design, implementation and maintenance of the junction improvement works at Nam Pin Wai Roundabout (NPW) and at Junction of Clear Water Bay Road/Hang Hau Road/Ying Yip Road (J/O CWBR/HHR/YJR), as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board. The applicant applied for reviewing the RNTPC's decision on the imposition of approval condition (c) and requested for deletion of the said condition;

- (c) the applicant had submitted written representation in support of the review application as mentioned in paragraph 3 of the Paper and they were summarized below:
- i) the traffic concerns at the concerned roundabout and junctions arose from general increase in background traffic flows, but did not arise directly from the proposed hospital;
 - ii) Hiram's Highway was one of the most important strategic roads between Sai Kung and Kolwoon. The Government would derive and implement major strategic improvement works to Hiram's Highway between Clear Water Bay Road and Marina Cove to accommodate the anticipated traffic growth in the whole Sai Kung area. It was unreasonable to require the applicant to maintain portion of the public roads as required under condition (c);
 - iii) the roundabout and junctions involved were part of the major road system for Sai Kung District and were maintained by the Government. They were of significant distance from the application site;
 - iv) in response to the Transport Department's comment that the Hiram's Highway Improvement Phase 4, including the NPW Roundabout Improvement, had not yet been confirmed and the improvement proposal might be delayed beyond 2016, the applicant suggested interim junction improvement works for

Government's consideration. The applicant made no commitment to design, implement and maintain such improvement works;

- v) local junction improvement measures in relation to J/O CWBR/HHR/YYR had been suggested in the Traffic Impact Assessment (TIA) to alleviate the capacity problem, which would be overloaded by 2016 even without the proposed hospital. The applicant did not offer to take up the responsibility of undertaking the improvement works; and
- vi) the applicant would be willing to consider the provision of traffic management measures upon the hospital operation to mitigate the traffic impact on the concerned two junctions, if necessary. However, this was not suitable for inclusion as an approval condition, as it was uncertain and might not be directly related to the operation of the proposed hospital;

Site Background

- (d) the site was located between Pik Shui Sun Tusen (PSST) and Clear Water Bay Road, and shared part of the village access of PSST off Chuk Kok Road;
- (e) the Site was the subject of an objection to the previous "CA" zoning on the previous OZP No. S/SK-CWBN/1. After giving consideration to the Objector's submission and government departments' comments, the TPB decided to rezone the Site from "CA" to "G/IC(5)". 'Hospital' was under 'Column 2' of the proposed "G/IC(5)" zoning, and the project proponent was required to submit TIA, and propose mitigation measures, if necessary, as part of the planning application for the Board's consideration;
- (f) an updated TIA submitted by the applicant at the s.16 planning stage in early 2011 suggested that (i) all the key junction and road links would

still be able to accommodate the traffic demand in both 2016 and 2021 with the proposed hospital and the surrounding planned residential developments; (ii) should the planned improvement works at the NPW Roundabout be delayed beyond 2016, interim improvement measures to the NPW Roundabout should be undertaken; and (iii) the proposed improvement/widening works at the J/O CWBR/HHR/YJR was considered technically feasible. The AC for T/NT had no comment on the s. 16 application and updated TIA. Approval condition (c) therefore had been imposed to ensure the NPW Roundabout and J/O CWBR/HHR/YJR would not be adversely affected by the proposed development;

Departmental Comments

- (g) the departmental comments were detailed in paragraph 6 of the Paper and the main points were:
- i) Chief Highway Engineer/Works (CHE/W), Highways Department (HyD) commented that the original road scheme for the project PWP Item No.703TH - Dualling of Hiram's Highway between Clear Water Bay Road and Marine Cove and Improvement to Local Access to Ho Chung was gazetted under the Roads (Works, Use and Compensation) Ordinance (Cap. 370) on 26.3.2010. The amendment scheme had been gazetted in February 2011 under the same Ordinance. There was no firm programme for the project. The interim improvement works for the NPW Roundabout suggested by the applicant did not match with the gazetted road scheme of PWP Item No.703TH;
 - ii) Commissioner for Transport (C for T) commented that approval condition (c) was intended to ensure that, with the improvement works in place, the concerned junctions could be improved timely to tie in with the commissioning of the proposed hospital development. There was no programme for improvement works at the J/O CWBR/HHR/YJR. The traffic situation at the

junction would be monitored and, if necessary, minor improvement works (i.e. value less than \$1.3 million) could be carried out by TD. It was considered that the proposed hospital development would aggravate the traffic situation of the adjacent road network. However, in view of the applicant's justifications, TD agreed to amend approval condition (c) and add an advisory clause to mitigate the traffic impact brought about by the proposed development to the nearby road network;

- iii) Secretary for Food and Health and District Officer (Sai Kung) had no comment on the review application;

Public Comment

- (h) no public comment was received during the statutory public inspection period;

Planning Considerations and Assessments

- (i) the planning considerations and assessments were detailed in paragraph 8 of the Paper and the main points were:
 - i) approval condition (c) had been imposed to ensure the NPW Roundabout and J/O CWBR/HHR/YR would not be adversely affected by the proposed development ;
 - ii) there was no firm programme for the improvement works for the NPW Roundabout under PWP Item No.703TH. Regarding the improvement works at J/O CWBR/HHR/YR, C for T indicated that the traffic situation at the concerned junction would be monitored and, if necessary, he could arrange the works to be carried out as minor improvement works ;
 - iii) taking account of the applicant's justifications in the review application and the latest position of improving the NPW Roundabout and J/O CWBR/HHR/YR, C for T agreed to amend approval condition (c) to the effect that the applicant

would implement traffic management measures on the Site if the improvement works at the two junctions were not completed before the operation of the proposed development;

iv) it was considered that the approval condition (c) could be amended to reflect TD's latest views and the updated circumstances of the improvement works at the two road junctions while ensuring that the proposed hospital development at the Site would not cause adverse traffic impact to the nearby road network;

(j) PlanD's views – given the planning considerations and assessments summarised in paragraph 7 of the paper, PlanD did not support the proposed deletion of approval condition (c) as proposed by the applicant. It was suggested to amend approval condition (c) and add an advisory clause to reflect the latest circumstances as follows:

approval condition (c) to be amended to read as:

(c) “the submission and implementation of traffic management measures on the application site to the satisfaction of the Commissioner for Transport or of the Town Planning Board, if the improvement works at NPW Roundabout and J/O CWBR/HHR/YYR were not completed before the operation of the proposed development.”

newly added advisory clause (k):

(k) to note the comments of Commissioner for Transport that:

“the Government did not guarantee that the improvement works for NPW Roundabout and J/O CWBR/HHR/YYR would be constructed at all, or they would be completed in time to meet the scheduled operation date of the proposed development.”

26. The Vice-chairman then invited the applicant's representatives to elaborate on the application.

[Mr. Y.K. Cheng arrived to join the meeting at this point.]

27. Members noted that an alternative condition (c) proposed by the applicant had been tabled for Members' consideration. With the aid of some plans shown at the visualiser, Mr. Ian Brownlee made the following points:

- (a) the applicant had already submitted to the Lands Department an application on the land exchange of the Site. Implementation works for the proposed hospital were in progress;
- (b) the applicant requested the Board to delete approval condition (c);
- (c) the two road junctions, namely NPW Roundabout and J/O CWBR/HHR/YJR were of significant distance from the application site and were part of the major road network of Sai Kung District;
- (d) in imposing an approval condition, the Board should take into account the following considerations:
 - whether the approval condition was necessary;
 - whether the approval condition was relevant to planning consideration;
 - whether the approval condition was relevant to the applied development;
 - whether the approval condition was enforceable;
 - whether the approval condition was precise;
 - whether the condition was reasonable
- (e) the applicant submitted that the approval condition (c) failed to meet the above considerations;
- (f) the applicant considered that the approval condition (c) was unreasonable because : -
 - i) the applicant did not propose to design, build and maintain the

junction improvement works required in the approval condition. The indicative designs submitted by the applicant were to indicate how the concerned road junctions could be improved by the Government;

- ii) requiring the applicant to provide 'maintenance' for these public roads as set out in the approval condition was inappropriate. As the design, implementation and maintenance of the subject road were being carried out by the HyD, it would be difficult for C for T or the TPB to decide whether the applicant had complied with the approval condition;
 - iii) the amount of traffic generated by the proposed hospital development was insignificant (only about 1.5% to 2.5%). The traffic congestion of these junctions was due to the high volumes of background traffic flows rather than the traffic generated by the proposed development. The road junctions would be overloaded even without the proposed development;
 - iv) according to the TPB Paper, the traffic congestion problem in Sai Kung would be addressed by the Government as follows:
 - dualling of Hiram's Highway in PWP Item No. 703TH, which would improve the NPW roundabout. The proposed road scheme had been gazetted and downstream works were being undertaken by the government departments; and
 - the traffic situation at the J/O CWBR/HHR/YJR was being monitored by C for T and improvement works would be carried out, if required;
- (g) in view of the above, there was no need to require the applicant to undertake junction improvement works as set out in approval condition (c);

- (h) C for T had proposed to revise the approval condition (c) to require the applicant to submit and implement traffic management measures on the application site, if the improvement works for the relevant two junctions were not completed before the operation of the proposed hospital. While it was directly related to the hospital site and the vicinity, the revised condition was still unacceptable;
- (i) if the Board decided that the approval condition (c) was necessary, a further revised condition (i.e. the 'alternative condition' (c)) which had been tabled at the meeting was suggested as follows:
 - “(c) Should the improvement works at the Nam Pin Wai Roundabout and at the Junction of Clear Water Bay Road/Hung Hau Road/Ying Yip Road not be completed before the commencement of operation of the proposed development, and should there be unacceptable levels of congestion at one or both of these junctions, then the Commissioner for Transport might request the submission and implementation of traffic management measures on the application site. Such traffic management measures should also ensure that the essential functioning of the hospital might continue and should only apply until such time as the junction improvements had been implemented. The traffic management measures should be to the satisfaction of the Commissioner for Transport or of the Town Planning Board.
- (j) the 'alternative condition' had specified two important issues, namely, the traffic management measures would only be required when there was traffic congestion at the two junctions, and the measures should not affect the operation of the proposed hospital.

Traffic Management Measures

28. A Member asked whether any traffic management measure had been proposed in the development proposal at the s.16 planning stage and whether any contingency traffic

arrangements had been worked out by the applicant in case the improvement works at the concerned roundabout and road junction were not completed before the operation of the hospital. Mr. Ian Brownlee replied that no traffic management measures or contingency traffic arrangements had been prepared by the applicant. Mr. Brownlee explained that the traffic congestion at the concerned roundabout and road junction was mainly caused by the general increase of background traffic flows. The amount of traffic generated by the proposed hospital development was insignificant. The local road junctions would be overloaded even without the proposed hospital. The interim junction improvement works proposed by the applicant were suggested for Government's consideration. The applicant had no commitment to implement or maintain the improvement works as required by the approval condition.

29. Another Member noted that the proposed hospital would provide 235 beds for in-patient care and other medical services. This Member asked whether the applicant would provide shuttle bus service from/to the nearest MTR Station for their customers. Mr. Alan Pun said that the applicant had no plan to provide shuttle bus service at the moment, but this would be considered after the actual operation of the hospital.

30. Mr. Jimmy Leung, D of Plan, said that it would be beneficial for the hospital to work out some appropriate traffic management measures such as scheduling visiting hours and delivery vehicles at non-peak hours, to address the traffic congestion during peak hours. This would not only benefit the local community, but would also ensure the provision of timely medical services, in particular emergency services, by the hospital. The traffic consultants should provide their expert advice to their client on this issue.

Alternative Condition (C) Proposed by the Applicant

31. Another Member referred to the alternative condition (c) proposed by the applicant and asked what were meant by 'unacceptable levels of congestion'. In response, Mr. Alan Pun said that C for T would be the authority to decide whether the relevant road junctions had reached an unacceptable level of congestion. According to the assessments undertaken by the applicant, the road junctions would be overloaded even without the proposed hospital development. As such, the applicant had worked out some improvement measures to address the congestion problem for the Government's consideration.

32. In response to the Vice-chairman's enquiry, Mr. Ma Kwai Loeng, SE/H&P, TD, replied that by assessing the traffic demand and capacity of the concerned junctions, C for T could decide whether the road junctions were congested and whether the level of congestion was unacceptable. The traffic situation at the concerned road junctions was being monitored by the relevant government departments. Improvement works for the NPW Roundabout would be undertaken under the project of 'Dualling of Hiram's Highway between Clear Water Bay Road and Marine Cove and Improvement to Local Access to Ho Chung'. The road scheme had already been gazetted. The TD and HyD were processing the objections received which would cause slight delay to the implementation programme. For the J/O CWBR/HHR/YJR, there was not yet any programme for the improvement works. The traffic situation would be closely monitored and, if necessary, C for T would arrange minor improvement works. Mr. Ma explained that in case there was delay in the improvement works for these two junctions, it would be desirable for the hospital to implement some traffic management measures to alleviate the traffic congestion problem, such as scheduling the visiting hours to avoid the peak hour traffic. He stated that the spirit of the alternative condition (c) proposed by the applicant was acceptable.

33. Another Member considered that the requirements stipulated in the alternative condition (c) were very vague. This Member said that as the concerned roundabout and road junction were quite far away from the application site, it was doubtful as to how C for T could estimate the amount of traffic flow at the roundabout and road junction that were generated from the hospital development. This Member also asked about the kinds of the traffic management measures that would be required to address the congestion problem of these junctions. Mr. Ma Kwai Loeng, SE/H&P, TD, said that C for T could ascertain the amount of traffic generated from the hospital development by way of traffic surveys at appropriate road sections/junctions. Regarding the kinds of traffic management measures that would be required, they should be worked out by the applicant taken into consideration the operation of the hospital. One example was to schedule the visiting hours to avoid the peak hour traffic.

34. Referring to the 'alternative condition (c)' proposed by the applicant, a Member enquired about the applicant's interpretation of 'unacceptable levels of congestion' and whether the applicant would carry out the traffic management measures even if the

congestion problem was caused by the background traffic. Mr. Ian Brownlee stated that there was quantifiable data to decide whether the congestion at the junctions had reached an unacceptable level, such as the queuing time for vehicles to pass through the junctions. If C for T considered that the relevant road junctions had reached an 'unacceptable level of congestion', they could request the applicant to introduce traffic management measures in the application site. However, Mr. Brownlee said that as the proposed hospital would not generate significant traffic, it was unreasonable to impose the approval condition (c). Besides, it was noted that improvement works for the NPW roundabout were being implemented by the Government. As such, the applicant requested the Board to delete approval condition (c).

35. A Member said that the requirements set out in the alternative condition (c) were inconsistent. While C for T 'might request' the applicant to provide traffic management measures in the application site, the said measures 'should be' provided to the satisfaction of C for T, which was a mandatory requirement. From this construction, it seemed that the decision on whether to provide the traffic management measures rested with the applicant though the measures, if provided, should be to the satisfaction of C for T. This Member asked Mr. Ma for his view on interpretation of the request and the mandatory requirement. This Member also asked the applicant to clarify whether the last part of the alternative condition, i.e. traffic management measures should only apply until such time as the junction improvements had been implemented, implied that the traffic management measures would only be provided after the implementation of the junction improvement works.

[Mr. Felix W. Fong left the meeting at this point.]

36. Mr. Ma Kwai Loeng, SE/P&H, TD, said that according to his understanding of the alternative condition, C for T should have the authority to request the applicant to submit and implement traffic management measures on the application site. While the applicant could discuss with C for T on the details of the measures to be provided, C for T should have the final decision on whether these measures were acceptable. The Vice-chairman asked whether the applicant agreed with this interpretation, i.e. C for T had the authority to request the applicant to submit and implement traffic management measures on the application site. Once such request was made, it was a mandatory requirement for the applicant to provide the measures to the satisfaction of C for T. Mr. Ian Brownlee said that he agreed with Mr.

Ma's interpretation. However, the required traffic management measures should not affect the operation of the hospital. Once the junction improvement works had been completed, C for T could no longer demand the applicant to provide traffic management measures. In response to the Vice-chairman's enquiry, Mr. Ian Brownlee said that if the Board considered that the approval condition (c) was necessary, the alternative condition (c) had been proposed for Members' consideration. The final wording should be decided by the Board. However, the applicant requested the Board to delete the condition.

37. In response to a Member's question, Mr. Ian Brownlee said that 'commencement of operation' of the proposed hospital referred to the actual operation of the hospital, i.e. provision of medical services and in-take of patients. The proposed hospital was expected to start its operation in four years' time.

38. Another Member enquired whether the Government could speed up the improvement works so as to resolve the congestion problem. Mr. Ma Kwai Loeng, SE/H&P, NTE, TD, said that the road scheme for the improvement works for the NPW Roundabout had been gazetted. The implementation programme was slightly delayed due to the time required for processing the objections received. In view of the updated progress of the improvement works, TD had agreed to revise the original condition (c) as set out in the TPB Paper (paragraph 6.2.4) to the effect that the applicant would be required to implement the traffic management measures in the application site if the improvement works at the two junctions were not completed before the operation of the proposed hospital. If the improvement works could be completed on time, there was no need for the applicant to provide the traffic management measures. A Member considered that as the revised condition (c) was imposed for the benefit of the local community, the applicant's representatives should further discuss with C for T so as to reach an agreement on the issue.

39. A Member had the following questions for the applicant's representatives:

- a) whether the applicant agreed that he was duty-bound to submit and implement traffic management measures if there was unacceptable levels of congestion at one or both of the concerned junctions;
- b) whether the applicant would challenge the application of the approval condition based on the fact that the traffic congestion was caused by the

general increase of the background traffic, but not the hospital development; and

- c) whether the applicant agreed that the test of reasonableness was the main factor to be considered in determining the appropriateness of the alternative condition proposed by the applicant.

40. Mr. Ian Brownlee replied that the applicant was duty-bound to provide the traffic management measures if C for T made such request. There should be discussion and negotiation amongst the relevant parties on the details of the traffic management measures required. For the second question, the applicant could not commit whether they would challenge the requirement or not. However, the applicant would assume that the traffic management measures required by C for T were reasonable. For the last question, it was considered that all relevant parties should be reasonable.

41. As the applicant's representatives had no further comment to make and Members had no further question, the Vice-chairman informed them that the hearing procedures for the review application had been completed. The Board would further deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Vice-chairman thanked the representatives of the applicant and government departments for attending the meeting. They all left the meeting at this point.

Deliberation

42. Members generally considered that the original condition (c) attached to the planning approval should be varied to reflect the latest circumstances. In order to ensure that the applicant would implement appropriate traffic management measures on the site if the improvement works at the concerned roundabout and road junction were not completed before the operation of the proposed hospital development, a revised condition (c) was required.

43. A Member had concern that applicant had not worked out any traffic management measures for the hospital development. Two other Members shared this view and said that the applicant should consider providing traffic management measures, such as

shuttle bus services, to serve the hospital users. A Member said that the proposed hospital should have some traffic management measures even without the approval condition (c). This Member considered that both the Government and the applicant should make effort to address the traffic congestions at the concerned roundabout and road junction. As C for T considered that the alternative condition (c) proposed by the applicant was acceptable, this Member had no strong view on the applicant's proposal. Some Members, however, held different views. These Members opined that the wording of the alternative condition (c) proposed by the applicant was ambiguous and would cause dispute in fulfilling the approval condition. This would complicate the issue and probably cause delay in the provision of the traffic management measures at the hospital site in case the roundabout and junction improvement works could not be implemented as scheduled.

44. Another Member said that as the two road junctions were quite far from the application site, it might not be reasonable to require the applicant to implement improvement works at these road junctions. The original condition (c) should be revised, as appropriate.

[Dr. Winnie S.M. Tang left the meeting at this point.]

45. A Member said that the revised condition (c) set out in the TPB Paper No. 8887, which required the applicant to submit and implement the traffic management measures on the application site in case the junction improvement works were not completed before the operation of the proposed hospital, was clear and precise. This was a contingency measure if the improvement works failed to complete as scheduled.

46. Mr. Fletch Chan, PAS(Transport), THB, stated that although the concerned roundabout and road junction were at a distance from the proposed hospital, the vehicular traffic to/from the hospital had to pass through these two junctions. Since the traffic flow at these the concerned roundabout and road junction was already heavy, additional traffic to be generated by the hospital development could have disproportionately significant impact on these junctions. It was against this background that C for T requested to impose an approval condition to the effect that the applicant would implement some traffic management measures in the application site if the improvement works at the two junctions were not

completed before the operation of the proposed hospital. It would not only benefit the local community, but the proposed hospital as well.

47. The Secretary informed Members that the application site was originally zoned “CA” on the previous OZP and there was no planning intention to provide a hospital thereon. Following a court decision, the Board reheard the objection raised by the applicant and agreed to rezone the site from “CA” to “G/IC(5)” with ‘Hospital’ under ‘Column 2’ of the Notes. In submitting s.16 application for the proposed hospital development, the project proponent was required to demonstrate that the proposed development would not have adverse impacts including traffic impacts on the area. As set out in the TPB Paper No. 8887, a traffic impact assessment was submitted by the applicant at the s.16 planning stage in early 2011 which indicated, amongst others, that should the planned improvement works at the NPW Roundabout be delayed beyond 2016, interim improvement measures to the NPW Roundabout should be undertaken; and the proposed improvement/widening works at the J/O CWBR/HHR/YJR was considered technically feasible. It was on this understanding that the RNTPC, on 15.4.2011, decided to approve the subject planning application, on the terms of the application as submitted by the application. Hence, approval condition (c) was imposed as proposed by the applicant to ensure the NPW Roundabout and J/O CWBR/HHR/YJR would not be adversely affected by the proposed hospital development. Taking into account C for T’s advice, PlanD proposed to revise the approval condition (c) set out in paragraph 9.1 of the TPB Paper with which the applicant was required to submit and implement traffic management measures in connection with the application site, but not the two concerned road junctions. Members noted.

48. The Vice-chairman concluded Members’ views that the approval condition (c) should not be deleted totally to ensure that the proposed hospital development would not adversely affect the concerned roundabout and road junction but should be varied to take into account of the latest circumstances. Members considered that the alternative condition (c) proposed by the applicant’s representatives at the meeting was ambiguous and would cause dispute in the course of fulfilment of the approval condition. Hence, the alternative condition (c) should not be adopted. Taking into account C for T’s advice and the latest position of the improvement works at the concerned roundabout and road junction, Members agreed to revise the approval condition (c) as set out in paragraph 9.1 of the TPB Paper and add an advisory clause as follows:

“the Government did not guarantee that the improvement works for NPW Roundabout and J/O CWBR/HHR/YYR would be constructed at all, or they would be completed in time to meet the scheduled operation date of the proposed development.”

49. After further deliberation, the Board decided to approve the application on review and the planning permission should be valid until 15.4.2015, 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 planning permission was subject to the following conditions (with the original approval condition (c) amended and addition of an advisory clause (k), other approval conditions and advisory clauses remained unchanged):

- (a) the submission and implementation of a Landscape Master Plan with tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the design, implementation and maintenance of the access road from Chuk Kok Road to the proposed development, with the measures to improve the sightline of the access road, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission and implementation of traffic management measures on the application site to the satisfaction of the Commissioner for Transport or of the Town Planning Board, if the improvement works at Nam Pin Wai Roundabout and Junction of Clear Water Bay Road/Hang Hau Road/Ying Yip Road were not completed before the operation of the proposed development;
- (d) the design, implementation and maintenance of any necessary diversion of the existing streamcourse and other interface

requirements to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

- (e) the implementation of the environmental mitigation measures, as proposed by the applicant, to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (f) the provision of fire service installations, water supplies for fire fighting and emergency vehicular access to the satisfaction of the Director of Fire Services or of the Town Planning Board.

50. The Board also agreed to advise the applicant of the following:

- (a) to note the comments of District Lands Officer/Sai Kung, Lands Department that application for land exchange was required to implement the proposed private hospital development if the application was approved. However, there was no guarantee that the proposed land exchange would be approved and that additional government land would be granted even though the subject application was approved by the Town Planning Board;
- (b) to note the comments from Department of Health that the proposed hospital development should comply with the Hospitals, Nursing Homes & Maternity Homes Registration Ordinance (Cap. 165) and all other necessary requirements;
- (c) to note the comments from Chief Town Planner/Urban Design and Landscape Unit, Planning Department that the following should be noted in the preparation of the Landscape Master Plan submission;
 - (i) the tree group of TR112, 113, 115, 135, 136 & 138 *Araucaria heterophylla* (南洋杉) was a visual focus in the application site. The feasibility of preserving the tree group should be reviewed. If felling was unavoidable, compensation with same species and

largest size stock in the market should be provided; and

- (ii) for planting on structures, i.e. podium & roof, adequate structural loading for soil depth not less than 1.2m for tree planting should be allowed;
- (d) to note the comments of Director of Environmental Protection that the responses to comments on air quality and noise sections should be included in the environmental assessment report and ensure the proposed measures would be incorporated in the future design of the hospital;
- (e) to note the comments of the Chief Engineer/ Sewerage Projects, Drainage Services Department that the applicant should arrange its own sewer connection to the existing sewerage system maintained by Hong Kong University of Science and Technology;
- (f) to note the comments from Chief Engineer/Mainland South, Drainage Services Department that:
 - (i) based on the submitted drainage reserve, drainage work would be required for diverting the runoff from the Site to the existing stream;
 - (ii) according to their records, there was an existing stream within the Site for receiving the runoff from the 1200mm diameter stormwater drain; and
 - (iii) the applicant was reminded to maintain all time free access to the drainage reserve and adequate headroom along the drainage reserve to facilitate drainage maintenance works;
- (g) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department that the

proposed access road crossed the existing slope feature No. 11NE-B/FR290 to the west of the Site. Upon the proposed development, this slope feature might affect, or be affected by the proposed access road. Thus, the applicant should be responsible for maintaining the portion of slope feature no. 11NE-B/FR290 in the vicinity of the proposed access road;

- (h) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that:
 - (i) the cost of any necessary diversion of existing water mains affected by the development should be borne by the development project;
 - (ii) for provision of fresh 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
 - (iii) salt water supply for flushing purpose was not available to the application site;
- (i) to note the comments of the Director of Fire Services that emergency vehicular access (EVA) arrangement should comply with Part VI of the Code of Practice for Means of Access for Fire-fighting and Rescue administered by the Buildings Department. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans;

- (j) to note the comments of the Chief Building Surveyor/NT East 2 & Rail, Buildings Department that:
 - (i) since portion of the existing access road leading to Pik Shui Sun Tsuen was less than 4.5m wide, the development intensity of the Site in terms of height of building, maximum site coverage and maximum plot ratio should be determined by the Building Authority under Building (Planning) Regulation (B(P)R) 19(3);
 - (ii) emergency vehicular access complying with B(P)R 41D should be provided; and
 - (iii) the requirements of Hong Kong Planning Standards and Guidelines and the advice from Commissioner for Transport would be taken into account in disregarding the car parking spaces and lay-by from GFA calculation;

- (k) to note the comments of Commissioner for Transport that:

the Government did not guarantee that the improvement works for Nam Pin Wai Roundabout and Junction of Clear Water Bay Road/Hang Hau Road/Ying Yip Road would be constructed at all, or they would be completed in time to meet the scheduled operation date of the proposed development.

[The meeting was adjourned for a 5-minute break.]

[Ms. Maggie M.K. Chan and Dr. James C.W. Lau left the meeting at this point.]

Agenda Items 5 to 8

[Confidential Items. Closed Meeting.]

51. These items were recorded under confidential cover.

Sha Tin, Tai Po and North District

Agenda Item 9

[Open Meeting]

Request for Deferral for Review of Application No. A/NE-TK/347

Proposed House (New Territories Exempted House – Small House) in "Village Type Development" and "Agriculture" zones, Government Land in D.D. 15, Shan Liu Village, Tai Po

(TPB Paper No. 8882)

[The meeting was conducted in Cantonese.]

52. The Secretary reported that on 2.8.2011, the representative of the applicant wrote to the Secretary, Town Planning Board (the Board) and requested the Board to defer making a decision on the review application for three months in order to allow time for the implementation of the trunk sewer by the Drainage Services Department, which would affect the village ingress/egress point and the Small House applications of Shan Liu Village. The Planning Department had no objection to the request for deferment as the justifications for deferment met the criteria for deferment as set out in the TPB Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance.

53. After deliberation, the Board agreed to defer consideration of the review application for two months, instead of three months sought, in order to allow time for the applicant to prepare submission of further information. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicant. The Board also agreed to advise the applicant that two months were allowed for preparation of submission of the

further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 10

[Open Meeting]

Request for Deferral for Review of Application No. A/NE-TK/352

Proposed Two Houses (New Territories Exempted Houses - Small Houses) in "Green Belt" zone, Lots 297 S.A ss.1 and ss.6 in D.D. 26, Shuen Wan Chim Uk, Tai Po (TPB Paper No. 8883)

[The meeting was conducted in Cantonese.]

54. The Secretary reported that on 2.8.2011, the representative of the applicants wrote to the Secretary of the Town Planning Board (the Board) requesting the Board to defer consideration of the review application for one month in order to allow time for the preparation of further information. The Planning Department had no objection to the request for deferment as the justifications for deferment met the criteria for deferment as set out in the TPB Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance.

55. After deliberation, the Board agreed to defer consideration of the review application for one month in order to allow time for the applicants to prepare submission of further information. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicants. The Board also agreed to advise the applicants that one month was allowed for preparation of submission of the further information. No further deferment would be granted unless under very special circumstances.

Sai Kung and Islands District

Agenda Item 11

[Open Meeting]

Request for Deferral for Review of Application No. A/SK-TMT/31

Proposed 4 Houses (New Territories Exempted House (NTEHs)/Small Houses) in "Green Belt" zone, Lots 32 S.A ss.4, 32 S.A ss.5, 32 S.B ss.3, 32 S.C RP, 32 S.A ss.7, 32 S.A RP, 32 S.B ss.5, 32 S.B RP, 32 S.A ss.6, 32 S.A ss.8, 32 S.B ss.4, 32 S.B ss.6, 32 S.A ss.2, 32 S.A ss.3, 32 S.B ss.2 and 32 S.C ss.1 in D.D. 256, Tai Po Tsai Village, Sai Kung (TPB Paper No. 8893A)

[The meeting was conducted in Cantonese.]

56. The Secretary reported that on 2.8.2011, the representative of the applicants wrote to the Secretary of the Town Planning Board (the Board) requesting the Board to defer consideration of the review application for two months in order to allow time for the applicants to address the concerns of the Water Supplies Department, the Transport Department and the Agriculture, Fisheries and Conservation Department and to carry out a tree survey. The Planning Department had no objection to the request for deferment as the justifications for deferment met the criteria for deferment as set out in the TPB Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance.

57. After deliberation, the Board agreed to defer consideration of the review application for two months in order to allow time for the applicants to liaise with relevant government departments to address their concerns and to carry out the tree survey. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicants. The Board also agreed to advise the applicants that a further of two months, resulting in a total deferment of 2.5 months, had been allowed for preparation of submission of the further information. No further deferment would be granted unless under very special circumstances.

Procedural Items

Agenda Item 12

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations to the
Sha Tin Outline Zoning Plan No. S/ST/24

(TPB Paper No. 8889)

[The meeting was conducted in Cantonese]

58. The following Members had declared interests on this item:

Mr. Clarence W.C. Leung	-	Owned a flat at Fotan
Professor C.M. Hui	-	owned a flat at Shatin
Mr. Raymond Y.M. Chan	-	his spouse owned a flat at Shatin
Dr. W.K. Lo	-	owned an industrial unit at Tai Wai

59. Members agreed that as the item was procedural in nature and no deliberation was required, the above Members could be allowed to stay in the meeting. Members noted that Mr. Clarence W.C. Leung had tendered apology for not being able to attend the meeting.

60. The Secretary reported that on 11.2.2011, the draft Sha Tin Outline Zoning Plan No. S/ST/24 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 36 valid representations were received. On 6.5.2011, the representations were published for three weeks for public comments. By the end of the publication period, no comment was received.

61. The Secretary continued to point out that since the proposed amendments to the Plan were all related to a public housing development and the representations were of similar nature, it was recommended that the representations should be considered by the full Board.

The hearing could take place in the Board's regular meeting and a separate hearing session would not be necessary. As the representations were all related to rezoning of various zones to "Residential (Group A)1" to facilitate the public housing development in Shui Chuen O and propose to use the site to meet the Small House demands of nearby villages, it was suggested that the representations be heard collectively in one group by the Board.

62. After deliberation, the Board agreed that the representations should be heard collectively by the Board in the manner as proposed in paragraphs 2.1 and 2.2 of the Paper.

Agenda Item 13

[Open Meeting]

Submission of the Draft Hoi Ha Development Permission Area Plan No. DPA/NE-HH/1A to the CE in C for Approval under Section 8 of the Town Planning Ordinance

(TPB Paper No. 8891)

[The meeting was conducted in Cantonese.]

63. The Secretary introduced the Paper. On 30.9.2010, the draft Hoi Ha DPA Plan No.DPA/NE-HH/1 (DPA) was exhibited for public inspection under section 5 of the Ordinance. During the two-month exhibition period, a total of 18 representations were received. On 10.12.2010, the representations were published for three weeks for public comments and no comment was received. After giving consideration to all the representations on 8.4.2011, the Board noted the support of representation Nos. R1 to R5, R6 (part), R7 (part), R8 (part), R9 (part), R10 (part) and R11 (part) and decided not to uphold the representation Nos. R6 (part), R7 (part), R8 (part), R9 (part), R10 (part) and R11 (part) and R12 to R18. Since the representation consideration process had been completed, the draft DPA was ready for submission to the Chief Executive in Council (CE in C) for approval.

64. After deliberation, the Board :

- (a) agreed that the draft Hoi Ha DPA Plan No. DPA/NE-HH/1A at Annex I of the paper and its Notes at Annex II of the paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Hoi Ha

DPA Plan No. DPA/NE-HH/1A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the draft Hoi Ha DPA Plan and issued under the name of the Board; and

- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft DPA.

Agenda Item 14

[Open Meeting]

Submission of the Draft So Lo Pun Development Permission Area Plan No. DPA/NE-SLP/1A to the CE in C for Approval under Section 8 of the Town Planning Ordinance

(TPB Paper No. 8892)

[The meeting was conducted in Cantonese.]

65. The Secretary introduced the Paper. On 30.9.2010, the draft So Lo Pun DPA Plan No. DPA/NE-SLP/1 was exhibited for public inspection under section 5 of the Ordinance. During the two-month exhibition period, a total of 14 representations were received. On 10.12.2010, the representations were published for three weeks for public comments and five comments on the representations were received. After giving consideration to the 14 representations and five comments on 8.4.2011, the Board noted the support of representation Nos. R1 to R5, R6 (part), R7 (part), R8 (part) and R9 (part) and decided not to uphold the representation Nos. R6 (part), R7 (part), R8 (part) and R9 (part) and R10 to R14. Since the representation consideration process had been completed, the PDA was now ready for submission to the Chief Executive in Council (CE in C) for approval.

66. After deliberation, the Board :

- (a) agreed that the draft So Lo Pun DPA Plan No. DPA/NE-SLP/1A at Annex I of the Paper and its Notes at Annex II of the Paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;

- (b) endorsed the updated Explanatory Statement (ES) for the draft So Lo Pun DPA Plan No. DPA/NE-SLP/1A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for the draft DPA and issued under the name of the Board; and
- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft DPA plan.

Agenda Item 15

[Confidential Item]

[Closed Meeting]

67. This item was recorded under confidential cover.

Agenda Item 16

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

68. There being no other business, the meeting was closed at 12:00 noon.