

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) the permission is given to the use(s) and development under application. It does not condone any other use(s) and development which currently exist on the Site but not covered by the application. The applicant shall be requested to take immediate action to discontinue such use(s) and development not covered by the permission;
- (c) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that:
 - (i) The Site falls within Lots Nos. 1156 RP (Part) and 1157 (Part) both in D.D.130 ("the Lots") and adjoining GL. The Lots are Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (ii) Site inspection revealed that vacant structures have been found on the Lots and the adjoining GL on the south-western side. Besides, portion of GL adjoining Lot No. 1156 RP in D.D. 130 was being occupied as an open area. No permission has been given for the erection of the structures nor has any permission been given for occupation of GL. The layout of existing structures does not entirely tally with the proposal.
 - (iii) The Site is accessible via a strip of GL leading from Wong Kong Wai Road. His office does not carry out maintenance works for the said road nor guarantee that right-of-way will be given to the Site.
 - (iv) The lot owners may consider submitting formal applications to his office for Short Term Waiver and Short Term Tenancy to permit erection of the proposed structures on the Lots and occupation of the adjoining GL. However, there is no guarantee that the applications will be approved and he reserves his right to take any action as may be appropriate. The applications will be considered by Lands Department acting in the capacity as the landlord at its sole discretion. In the event that the applications are approved, they would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, rent, deposit and administration fee etc.
 - (v) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of the structures affected irrespective of whether planning permission will be given or not. Enforcement action will also be taken should any structures are found erected without any prior approval given by his office or any unauthorized occupation of GL;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the proposed access from the Site to Wong Kong Wei Road is not and will not be maintained by HyD; adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;

- (e) to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department;
- (f) to note the comments of Director of Environmental Protection (DEP) that sewage arising from the subject site should be directed to nearby public sewer. If septic tank and soakaway system is used in case of unavailability of public sewer, its design and construction should follow the requirements of the ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person (AP);
- (g) to note that comments of Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that in regards to the proposed drainage proposal, the applicant should note his below comments:
 - (i) The applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website (https://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html).
 - (ii) Based on his observation during an inspection on 19 August 2019, the existing 225 mm u-channel as specified in the applicant’s submitted drainage proposal could not be found. Please clarify.
 - (iii) Presumably it is the intent of applicant to make drainage connection to existing drainage channel adjacent to the proposed site. According to his record, the existing channel is not maintained by DSD. In this regard the applicant should be reminded to consult the relevant authorities/lot owners as appropriate.
 - (iv) Details of the proposed u-channel, catchpits and Upvc pipe and how it would be connected to the existing drainage system should be clarified and clearly shown on the drawing.
 - (v) Peripheral drainage channels should be provided to intercept the surface runoff from the uphill catchment so as to avoid the Site from overland flow influence. Please review.
 - (vi) Based on his observation during an inspection on 19 August 2019, the proposed 150mm Upvc pipe may encroach on the verge with trees and exposed tree roots Please review the routing of the proposed pipe and how it would be connected to the existing 225mm u-channel as specified in the applicant’s submitted drainage proposal.
 - (vii) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works.
 - (viii) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.

- (ix) The proposed works should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas;
- (h) to note the comments of the Director of Fire Services (D of FS) that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points: (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and (b) the location of where the proposed FSI to be installed should be clearly marked on the layout plans. However the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that there is no record of approval by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application. His comments under the Buildings Ordinance on the application are as follows:
 - (i) If the existing structures are erected on leased land without approval of the BA (not being a New Territories Exempted House (NTEH)), they are unauthorised under the BO and should not be designated for any approved use under the application.
 - (ii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) For UBW erected on lease land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
 - (iv) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.
 - (v) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively; and
- (j) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that if the proposal involves any commercial/trading activities, its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.