

Previous s.16 Applications

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-FTA/151	Proposed Temporary Goods Reshuffling Yards for a Period of 3 Years	24.7.2015 (On Review)	R1, R3 & R5
A/NE-FTA/156	Proposed Temporary Unloading/Loading Platforms for a Period of 3 Years	9.10.2015	R1, R4 & R5
A/NE-FTA/182	Proposed Filling of Land and Pond for Permitted Agricultural Use (Hydroponic Farm)	6.4.2018	R2, R5 & R6

Rejection Reasons

- R1 The proposed use was not in line with the planning intention of the “Agriculture” (“AGR”) zone for the area which was primarily intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.
- R2 The planning intention of the “Agriculture” (“AGR”) zone was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justifications for land/pond filling of 2 to 3m in height (+6.5mPD) for agricultural purpose.
- R3 The proposed use did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous planning approval granted at the site; the proposed development was not compatible with the surrounding land uses which were predominantly rural in character; there were adverse departmental comments on the application; and the applicant failed to demonstrate that the development would have no adverse traffic, environmental and landscape impacts on the surrounding areas.
- R4 The application did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in that there was no previous planning approval granted at the site; the proposed development was not compatible with the surrounding land uses which were predominantly rural in character; there were adverse departmental comments on the application; and the applicant failed to demonstrate that the development would have no adverse environmental and landscape impacts on the surrounding area.
- R5 Approval of the application would set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such similar

applications would result in a general degradation of the environment of the area.

- R6 The applicant failed to demonstrate that the filling of land and pond would not cause adverse drainage, environmental, ecological, landscape and traffic impacts on the surrounding area.

**Detailed Comments of EPD on Environmental Assessment (EA) Report's
Requirements**

A. EIAO Implication

1. It appears the distance between proposed project site and the nearest conservation area is around 500m. Given the works will involve filling of land and straightening of existing stream courses, there may be a possibility that the proposed works might constitute a Designated Project (DP) under EIAO Schedule 2 Part I Items C.12 and/or I.1(b) i.e. a dredging operation which is less than 500 m from the nearest boundary of an existing conservation area and/or a drainage channel or river training and diversion works which discharges or discharge into an area which is less than 300 m from the nearest boundary of an existing conservation area. Full details of EIAO Schedule 2 Part I Items C.12 and I.1 (b) are available at this web link: <http://www.epd.gov.hk/eia/english/legis/s2.html>. The applicant is requested to provide further details of the proposed works with a view to confirm whether it might constitute any DP under EIAO.

B. Water Quality

2. Further information is required to assess the water quality impacts and propose necessary mitigation measures by following the guidelines in ProPECC PN1/94 on "Construction Site Drainage" and the ETWB TC5/2005 on protection of natural streams/ rivers from impacts arising from construction works. The applicant is also reminded to properly handle wastewater discharge from the farm operation to comply with WPCO.

3. The applicant proposes filling of land, diversion of stream, land excavation and laying of 900mm concrete pipes surrounding the whole site boundary for drainage, and construction of a bridge over the tributary of the stream to the north. This involves substantial construction works but the proposal has no mention of construction phase water quality impacts to the water bodies or the mitigation measures required.

4. The proposal lacks an assessment of the operation phase water quality impacts due to potential discharge of wastewater containing fertilizers, pesticides and organic matter from the hydroponic farming activities.

5. Please also see comments on Sewage Disposal/Treatment below.

6. As the subject site may fall within the Deep Bay catchment area, the applicant should provide further information demonstrating compliance with the requirement of "no net increase in pollutant load to Deep Bay".

C. Sewage Disposal/Treatment

7. There is no existing or planned public sewer in the vicinity of the subject site available for connection. The applicant needs to assess and address any impacts arising from discharging of wastewater which may contain fertilizers, pesticides, organic matter, etc from the hydroponic farming activities, and from the sewage arisings during construction and operation stages of the project.

D. Other Issues

8. The EA report should also assess and address any air quality, noise and waste management issues arising from the project during its construction and operation stages. Particular attention should be paid to prevent fly-tipping/unauthorized landfilling activities during construction and operation stages.

Detailed Comments of DSD on the Drainage Proposal's General Requirements

- (a) surface channel with grating covers should be provided along the site boundary;
- (b) a drainage plan should be provided clearly showing the size, levels and routes of the proposed drainage. The details (invert level, gradient, general sections etc.) of the proposed drain / surface channel, catchpits and the discharge structure shall be provided;
- (c) the cover levels of proposed channels should be flush with the existing adjoining ground level;
- (d) a catchpit with covers should be provided where there is a change of direction of the channel / drain. The details of the catchpit with covers shall be provided;
- (e) catchpits with sand trap shall be provided at the outlets of the proposed drainage system. The details of the catchpit with sand trap should be provided;
- (f) the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the Site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;
- (g) the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and / or adequate openings should be provided at the walls / kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD, unless justified not necessary;
- (h) if the existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD, the applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
- (i) the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site at any time during or after the works;
- (j) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant properly and rectify the system if it is found to be inadequate or ineffective during operation at his/her own expense;
- (k) for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N and/or relevant private lot owners;
- (l) the applicant should make good all the adjacent affected areas upon completion of the drainage works;
- (m) the applicant shall allow all time free access for the Government and its agent to conduct site

inspection on his completed drainage works;

- (n) the applicant and the successive lot owners shall allow connections from the adjacent lots to the completed drainage works on Government Land when so required; and
- (o) photos should be submitted clearly showing the current conditions of the areas and the flow paths around the Site and the proposed / existing drainage from the discharge point(s) within the Site to the downstream existing water courses.

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied operation at the application site;
- (b) to note the comments of District Lands Officer/North, Lands Department as follows:
 - (i) the applicant should make her own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement;
 - (ii) there are unauthorized structures erected on Lots 518 RP, 520 RP, 527 RP and 528 RP in D.D. 89 (**Plan A-2a**) within/ adjoining the Site without prior approval from this office. The aforesaid structures are not acceptable under the Leases concerned and this office reserves the right to take necessary lease enforcement actions against the aforesaid structures;
 - (iii) some Government land within/ adjoining the Site is being illegally occupied. The applicant should cease occupation of the said portion of the Government land. This office reserves the right to take necessary land control actions against the irregularity; and
 - (iv) the Letter of Approval and Certificates of Exemption were cancelled and revoked on 12.10.2017. The applicant has to apply to AFCD and this office for a fresh 'Letter of Approval' to cover any proposed agricultural structures for the proposed hydroponic farm. However, having considered that the Site has already been filled up, it is not certain that the Site could meet the criteria of issuing Certificate of Exemption (Site Formation), and so there is no guarantee that Certificate of Exemption (Site Formation) could be issued;
- (c) to note the comments of Director of Environmental Protection as follows:
 - (i) any person who wishes to deposit C&D waste on the concerned private lands is required to obtain the written permission of the owners given in a specified form (EPD-238) and submit it to EPD before the intended date of the deposition. After acquiring EPD's acknowledgement on the form, the depositor (e.g. the contractor concerned or the dump truck driver transporting construction waste) must ensure that a copy of the acknowledged form is displayed in a conspicuous place on the lot before depositing the waste; and
 - (ii) the applicant should make reference to the general requirements in the environmental assessment report at **Appendix III**.
- (e) to note the comments of C for T that the Site connects Man Kam To Road via a local village road track, which is not under TD's management. The land status of the access leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly;
- (f) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction,

operation and maintenance of the inside services within the private lots to WSD's standards;

(g) to note the comments of CE/MN, DSD as follows:

(i) the Site is in an area where no public sewerage connection is available; and

(ii) the applicant should make reference to the general requirements in the drainage submission at **Appendix IV**; and

(h) to note the comments of CBS/NTW, BD as follows:

- (i) before any new building works (including containers / open sheds as temporary buildings) and site formation works are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
- (ii) for UBW erected on leased land, enforcement action may be taken by the BD 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;
- (iii) the temporary converted containers for site office / storage are considered as temporary buildings and are subject to control under the Building (Planning) Regulations (B(P)Rs) Pt. VII;
- (iv) in connection with (a) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with B(P)Rs 5 and 41D of the respectively;
- (v) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under B(P)R 19(3) at the building plan submission stage; and
- (vi) detailed comments under the BO will be provided at building plan submission stage.