

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) to note the comments of the District Lands Officer/North, Lands Department on the following:
 - (i) the actual occupation area does not tally with the Site. Unauthorized structures were erected on the Site without prior approval from his office. The unauthorized structures are not acceptable under the Leases concerned. Illegal occupation of Government land is also found. His office reserves the right to take necessary lease enforcement and land control actions against the unauthorized structures and the illegal occupation of Government land. Meanwhile, the applicant should make his own arrangements for acquiring access. The Government shall accept no responsibility in such arrangements;
 - (ii) the applicant should ensure that there should be no interference of any trees on Government land for the proposed coach and car parks; and
 - (iii) the owners of the lots concerned shall apply to Agriculture, Fisheries and Conservation Department/his office for a Letter of Approval (L of A)/Short Term Waiver (STW) to cover the said unauthorized structures erected on Site and a STT to cover the two proposed car parking areas. The applications for STT/L of A/STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STT/STW are approved, their commencement dates will be backdated to the first date of occupation or any appropriate date and they will be subject to such terms and conditions to be imposed including payment of rent/waiver fee and administrative fees as considered appropriate by his office;
- (c) to note the comments of the Commissioner for Transport that the village track connecting Fan Kam Road and the Site and the open areas for coach and car parking are not under the management of the Transport Department. The applicant should check the land status of the access and parking areas with the lands authority, and clarify its management and maintenance responsibilities with the relevant lands and maintenance authorities accordingly;
- (d) to note the comments of Director of Environmental Protection (DEP) 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 DEP in order to minimize any potential environmental impact;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the Site is in an area where no public sewerage connection is available;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:
 - (i) if the existing structures are erected on leased land without approval of BD not being a

New Territories Exempted House, they are unauthorized under the Buildings Ordinance (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 Building Authority (BA) 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 BO;
 - (iii) for UBW erected on leased land, enforcement action may be taken by 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) the Site shall be provided with means of obtaining access thereto from a street under Building (Planning) Regulations (B(P)Rs) 5 and emergency vehicular access shall be provided under Regulation 41D of the B(P)Rs; and
 - (v) if the Site is not abutting a specified street having a width not less than 4.5m, the development intensity shall be determined by the BA under Regulation 19(3) of the B(P)Rs at the building plan submission stage;
- (g) to note the comments of the Director of Fire Services on the following:
- (i) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by the BD; and
 - (ii) detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans;
- (h) to note the comments of the Director of Agriculture, Fisheries and Conservation that the need for tree preservation should be duly considered in using the Site so as to avoid causing any damage or disturbance to the existing trees and the surrounding environment;
- (i) to note the comments of the Chief Town Planner/Urban Design and Landscape of Planning Department that the applicant should undertake the maintenance of all existing mature trees in sustainable good conditions at all times during the planning approval period;
- (j) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines;

- (k) to note the comments of the Director of Food and Environmental Hygiene as follows:
- (i) if the operator intends to operate a restaurant business in the territory, a general restaurant/ light refreshment restaurant license should be obtained from Food and Environmental Hygiene Department (FEHD) in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant Government departments, such as Buildings Department, Fire Services Department, Planning Department, Lands Department (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements;
 - (ii) for the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. Besides, a Fresh Provision Shop licence is required for any person who intends to sell fresh, chilled or frozen beef, mutton, pork, reptiles (including live snake), fish (including live fish) and poultry at any premises before commencement of such business. The application for Food Factory Licence/ Fresh Provision Shop Licence, if acceptable by FEHD, will be referred to relevant Government departments, such as PlanD and LandsD (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements. FEHD will institute legal action against any person who operates a food business without a valid licence; and
 - (iii) the operation of the eating place must not cause any environmental nuisance to the surrounding. The refuse generated by the proposed eating place are regarded as trade refuse. The operator of the hobby farm should be responsible for the removal and disposal of the refuse generated by the hobby farm at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity; and
- (l) to liaise with the Association of Ping Kong Area Residents to address their concerns on the development.