

**REVIEW OF APPLICATION NO. A/YL-ST/547**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Temporary Container Vehicle Park with Ancillary Facilities (including Site Office and Storage in “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” Zone at Lot 769 RP (Part) in D.D.99, and Adjoining Government Land (GL), San Tin, Yuen Long**

**1. Background**

- 1.1 On 25.4.2019, the applicant, Most Rich Investment Limited, sought planning permission for temporary container vehicle park with ancillary facilities (including site office and storage) for a period of 3 years (**Plan R-1a**) under s.16 of the Town Planning Ordinance (the Ordinance). The Site of about 6,586 m<sup>2</sup> falls within an area zoned “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area (“OU(CDWRA)”) on the approved San Tin OZP No. S/YL-ST/8. The development involves 17 container vehicle parking spaces, 5 container tractor parking spaces, 3 staff/visitor car parking spaces, and five 1-2 storey structures for site offices, storage, toilets and meter room.
- 1.2 On 21.6.2019, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
  - (a) the proposed development is not in line with the planning intention of the “OU(CDWRA)” zone, which is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
  - (b) the applicant has failed to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas.
- 1.3 For Members’ reference, the following documents are attached:
  - (a) RNTPC Paper No. A/YL-ST/547 (Annex A)
  - (b) Extract of minutes of the RNTPC meeting held on 21.6.2019 (Annex B)

(c) Secretary of the Board's letter dated 5.7.2019

(Annex C)

- 1.4 The Site is subject to planning enforcement action against unauthorized development (UD) involving uses for place for parking of vehicles and for fuel filling station. Enforcement Notice (EN) was issued on 7.3.2019 requiring discontinuation of the UD (**Plan R-2**). Recent site inspection revealed that the UD still continued upon expiry of the notice, prosecution action may be followed.

## 2. Application for Review

- 2.1 On 8.7.2019, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC's decision to reject the application (**Annex D**). On 27.9.2019, the Board agreed to defer a decision on the application, as requested by the applicant, to allow two months' time for the applicant to prepare further information (FI) to address departmental comments. In support of the review application, the applicant submitted FI on 22.11.2019 (**Annex E**).
- 2.2 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 14.2.2020 for consideration of the review application has been rescheduled, and the Board has agreed to adjourn consideration of the application. The review application is now scheduled for consideration by the Board at this meeting.

## 3. Justifications from the Applicant

The summary of justifications put forth by the applicant in support of the s.16 application is detailed in paragraph 2 of **Annex A**. To support the review application, the applicant has submitted further justifications (**Annex E**) including traffic impact assessment (TIA) and swept path analysis in response to comments of Commissioner for Transport (C for T) which are summarized as follows:

- (a) On C for T's comments that sufficient space within the Site for manoeuvring of the container vehicles should be demonstrated, only 25% of the Site will be used for placing structures and parking of container vehicles. The eastern part of the Site which accounts for about 40% of the site area is reserved for manoeuvring and queuing of the container vehicles and hence space is sufficient. Swept path analysis for manoeuvring of container vehicles from the parking spaces at the Site to Castle Peak Road – San Tin has been conducted and included in the FI submitted.
- (b) On C for T's comments that the ingress/egress of the Site is too wide, the current width is considered appropriate taking into account the width of the Castle Peak Road and the heavy traffic flow during the peak hours.
- (c) A TIA has been prepared with details of trips generation and breakdown provided.
- (d) The parking spaces for container vehicles are rented on monthly basis.

#### **4. The Section 16 Application**

**The Site and Its Surrounding Areas** (Plans **R-1a** to **R-1c** and **R-2**, aerial photos on **Plan R-3** and site photos on **Plans R-4a** to **R-4b**)

- 4.1 The situation of the Site and its surrounding areas at the time of consideration of the s.16 application by the RNTPC is described in paragraph 8 of **Annex A**. There has not been any major change in planning circumstances of the area since then.
- 4.2 The Site is:
- (a) accessible from Castle Peak Road – San Tin along its south;
  - (b) hard-paved;
  - (c) located within the WBA and at the southern part of the “OU(CDWRA)” zone; and
  - (d) currently used for the applied use and fuel filling station without valid planning permission.
- 4.3 The surrounding areas are intermixed with storage/open storage yards, scattered residential dwellings and some unused/vacant land. Some open storage yards are suspected UD's subject to enforcement action by the Planning Authority:
- (a) to its immediate north is a watercourse; to its north, northwest and east are open storage yards for vehicles and container tractors/trailers, storage yards and some vacant land; to its further north, northeast and northwest are existing fish ponds within the adjacent “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” (“OU(CDWEA)”) and “Conservation Area” (“CA”) zones; and
  - (b) to its immediate south are scattered residential dwellings (the nearest one is at about 3-5m away abutting its southern boundary) and some unused/vacant land; further south across Castle Peak Road – San Tin are storage yards and some unused land.

#### **Planning Intention**

- 4.4 There has been no change in the planning intention of the “OU(CDWRA)” zone, i.e. it is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. Any new building should be located farthest away from Deep Bay.

#### **Town Planning Board Guidelines**

***TPB Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E)***

4.5 According to TPB PG-No.13E, the Site falls within Category 4 areas. The following criteria are relevant:

- (a) application for open storage and port back-up uses would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval condition of the previous planning applications and included in the applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Since the planning intention of Category 4 areas is to phase out the open storage and port back-up uses, a maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merits; and
- (b) taking into account the increasing demand for cross-boundary car parking facilities, applications for cross-boundary parking facilities at suitable sites in San Tin area, particularly near the existing cross-boundary link in Lok Ma Chau, may also be considered. Application for such nature will be assessed on its own merits, including its nature and scale of the proposed use and the local circumstances, and subject to satisfactory demonstration that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas, and each case will be considered on its individual merits.

***TPB Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)***

4.6 According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds;
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. However, some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA; and
- (c) application for new open storage or container back-up uses including workshops within the WBA, whether temporary or permanent, would normally not be allowed in view of the adverse disturbances of such activities on birds, in particular for such uses involving filling of contiguous

ponds. However, open storage or container back-up uses located close to the Lok Ma Chau crossing and without involving pond filling might be sympathetically considered by the Board in view of the genuine need to facilitate cross-boundary movements of goods in the area.

#### Previous Applications

- 4.7 The Site is the subject of 8 previous applications. 4 applications (No. A/YL-ST/113, 181, 197 and 246) were for temporary container trailer/vehicle parks (3 involved vehicle workshops), and 4 applications (No. A/DPA/YL-ST/4, A/DPA/YL-ST/25, A/YL-ST/172 and A/YL-ST/287) were for permanent residential developments on much larger sites.

#### *Temporary Container Vehicle Park Uses*

- 4.8 Application No. A/YL-ST/113 for temporary container trailer park, covering mainly the eastern half of the Site (about 2643.7 m<sup>2</sup>), was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 17.3.2000 for a period of 3 years when the site then fell within “Residential (Group D)” (“R(D)”) zone on the approved San Tin OZP No. S/YL-ST/2. The application was approved mainly on the grounds that the development was not incompatible with the surrounding open storage and container park uses, the site abutted Castle Peak Road – San Tin and the traffic generated would not penetrate into areas in the north (i.e. the fish pond areas); suitable mitigation measures would be imposed as approval conditions; the development would not generate adverse traffic and drainage impacts; the development was in line with the then TPB PG-No. 12B in that the site was located close to the Lok Ma Chau Crossing and involved no pond filling, the development could alleviate the acute shortage of port back-up land in the area; and previous planning approval for similar uses within the same “R(D)” zone had been given. The permission was subsequently revoked on 17.6.2001 due to non-compliance with approval conditions in relation to the submission and implementation of landscaping proposals; and the provision of drainage facilities, paving and fencing.
- 4.9 After the Site was rezoned from “R(D)” to “OU(CDWRA)” on 7.7.2000, application No. A/YL-ST/181, 197 and 246 for temporary container trailer/vehicle park with repair workshop uses covering slightly larger sites were rejected by the Committee on 21.12.2001, 10.5.2002 and 29.8.2003 respectively mainly on the grounds that the developments were not in line with the planning intention of the “OU(CDWRA)” zone and the then TPB PG-No. 12B; there was insufficient information to demonstrate that the developments would not have adverse environmental, traffic and drainage impacts, as well as disturbance impacts on the ecological integrity and ecological value of fish ponds within the WCA in the Deep Bay area; approval of the applications would set an undesirable precedent for similar applications; and the cumulative effect would result in a general degradation of the ecology and environment of the area.

*Permanent Residential Developments Covering Larger Sites (Plan R-1c)*

- 4.10 The four applications for residential development were rejected by the Committee or Board on review between 1993 and 2009. The details were set out in paragraphs 6.4 and 6.5 of **Annex A**.

Similar Applications

- 4.11 Within the “OU(CDWRA)” zone on the OZP, there are 21 applications for similar temporary vehicle parks uses involving container vehicles/trailers/tractors, amongst which 9 were approved with conditions between 2000 and 2010.
- 4.12 Applications No. A/YL-ST/109, 137 and 149 were all approved in 2000 by the Committee for 2 to 3 years on considerations that the proposed uses had no significant adverse impacts and the temporary approvals being interim arrangement could help alleviate the acute shortage of port back-up land and allow for a timely review of the land uses in the area. Application No. A/YL-ST/227 was approved on 16.5.2003 by the Committee for a period of 12 months on the condition of prohibiting heavy goods vehicles and container vehicles from parking at the site. For the remaining 5 applications approved by the Board on review or the Town Planning Appeal Board (applications No. A/YL-ST/182, 253, 273, 379 and 382) between 2002 and 2010, they were all approved for maximum periods of 6 to 12 months mainly on sympathetic grounds to allow time for relocation of the uses to other suitable locations. 6 of these 9 approved applications were subsequently revoked due to non-compliance with approval conditions.
- 4.13 For the remaining 12 similar applications, they were all rejected by the Committee or the Board on review between 2001 and 2007 mainly on grounds that the developments were not in line with the planning intention of the “OU(CDWRA)” zone, did not comply with the then TPB PG-No. 12B and 13C/13D; there was insufficient information to demonstrate that the developments would not have adverse ecological, environmental, traffic and drainage impacts; and approval of the application would set undesirable precedent for other similar applications within the “OU(CDWRA)” zone.

**5. Comments from Relevant Government Departments**

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 10 of **Annex A**.
- 5.2 For the review application, the following Government departments have been further consulted and their comments are summarized as follows:

**Traffic**

- 5.2.1 Comments of the C for T:

- (a) Having considered the FI submitted by the applicant, he has no further comment from traffic engineering point of view.
- (b) Should the application be approved, the following condition should be incorporated:

No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

### **Others**

5.2.2 The Commissioner of Police (C of P) has no comment on the review application from a policing perspective.

5.3 The following Government departments have no further comment on the review application and maintain their previous views on the s.16 application (**Annex A**). Their views are recapitulated as follows:

### **Land Administration**

5.3.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot 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.
- (b) No permission is given for occupation of GL of about 263 m<sup>2</sup> in area (subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible from Castle Peak Road – San Tin through GL. LandsD provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the application, the lot owner will need to apply to LandsD to permit the structures to be erected or regularize any irregularity on site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be

approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

### **Traffic**

#### 5.3.2 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) If the proposed run-in is agreed by the Transport Department (TD), the applicant should provide the run in/out at Castle Peak Road – San Tin in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads and drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – San Tin.

#### 5.3.3 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazetted railway scheme boundary, nor railway protection boundary of heavy rail systems. As such, he has no comment on the application from railway development viewpoint.

### **Environment**

#### 5.3.4 Comments of the Director of Environmental Protection (DEP):

- (a) He does not support the application as there are sensitive receivers in the vicinity of the Site (the nearest ones are about 3-5m away abutting its southern boundary) and environmental nuisance is expected.
- (b) Should the application be approved, the applicant is advised to implement appropriate pollution control measures as stated in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimize potential environmental impacts on the surrounding areas.
- (c) The Site is located to the immediate south of an existing watercourse. The applicant should strictly comply with relevant pollution control ordinances, in particular the Water Pollution Control Ordinance and avoid any illegal discharge of wastewater from the Site.



- (d) No environmental complaint pertaining to the Site has been received over the past 3 years.

#### **Nature Conservation**

##### 5.3.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) Noting that the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.
- (b) The Site is located to the south of an existing watercourse. Should the application be approved, the applicant shall be advised to ensure that the applied use would not cause water pollution or disturbance to the nearby watercourse.

#### **Fire Safety**

##### 5.3.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) 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 D of FS for approval. The applicant should also be advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) 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.

#### **Building Matters**

##### 5.3.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance

- (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by 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.
  - (c) 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.
  - (d) 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.

### **Drainage**

#### **5.3.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):**

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) He notes that the applicant is related to previous planning application No. A/YL-ST/246 which was rejected in August 2003. Therefore, it should be processed as a new case. He has checked that the drainage information mentioned in the Planning Statement is considered insufficient. In this respect, the applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations and charts should be included. (Guideline on preparation of the drainage proposal is available in DSD homepage at [http://www.dsd.gov.hk/EN/Files/Technical\\_Manual/dsd\\_guideline/Drainage\\_Submission.pdf](http://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf)). Should additional drainage works be required, the applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (c) After completion of the required drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the

completed drainage works jointly with the applicant with reference to the set of photographs.

- (d) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (e) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (g) The applicant should consult DLO/YL, LandsD regarding all the proposed drainage works outside the Site boundary in order to ensure the unobstructed discharge from the Site in future.
- (h) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the Site.

### **Landscaping**

#### **5.3.9 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L, PlanD):**

- (a) He has no objection to the application.
- (b) The Site, located to the north of Castle Peak Road (San Tin Section), falls within an area zoned “OU(CDWRA)”.
- (c) With reference to the aerial photo taken in 2018, the surrounding area of the Site is comprised of car parks, temporary structures and tree groups. The proposed use is considered not incompatible with existing landscape setting in the proximity.
- (d) According to his site visit conducted on 15.5.2019, the Site was hard paved and in operation. No significant landscape resource was observed. As further significant adverse landscape impact arising from the proposed use is not anticipated, he has no objection to the application from the landscape planning perspective.
- (e) In view that some existing trees along the boundary outside the Site act as landscape buffer to the adjacent road, it is opined that landscape condition is not recommended, should the application be approved by the Board.

### **Other Comments**

#### 5.3.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

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.

### **District Officer's Comments**

#### 5.3.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has no comment on the application and the local comments should be submitted to the Board directly, if any.

#### 5.4 The following Government departments maintain no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (e) Project Manager (West) (PM(W)), CEDD.

## **6. Public Comments Received During Statutory Publication Periods**

- 6.1 On 19.7.2019 and 6.12.2019, the review application and the FI were published for public inspection. During the first three weeks of the statutory public inspection periods, 12 public comments were received from World Wide Fund for Nature Hong Kong (submitted twice), Kadoorie Farm & Botanic Garden Corporation (submitted twice), Hong Kong Bird Watching Society (submitted twice), Designing Hong Kong, San Tin Rural Committee, the village representative of Mai Po Tsuen and three members of the public (**Annex F**). They all raised objection to the review application on the grounds that the applied use was not in line with the planning intention of "OU(CDWRA)" zone and WBA, approval of the application would legitimize the UD and set undesirable precedent and created road safety problems, the applicant had failed to demonstrate that the development would not have a negative off-site disturbance impact on the surrounding areas.
- 6.2 At the s.16 application stage, 1 supporting and 5 objecting comments were received. Details of the comments are in paragraph 11 of **Annex A**.

## **7. Planning Considerations and Assessments**

- 7.1 The application is for a review of the RNTPC's decision on 21.6.2019 to reject the application for temporary container vehicle park with ancillary facilities (including site office and storage) at the Site which is zoned "OU(CDWRA)". The rejection reasons were that the application was not in line with the planning intention of the "OU(CDWRA)" zone and the applicant has failed to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas. The applicant submitted FI in support of the application including swept path analysis for manoeuvring of container vehicles for the parking spaces within the Site to Castle Peak Road – San Tin and a TIA. C for T has no further comment on the review application from traffic engineering point of view. Nevertheless, apart from traffic concerns which have been addressed, the applicant has yet to address the following considerations raised at the s.16 stage on the application.

### *Not in line with Planning Intention*

- 7.2 The Site falls within "OU(CDWRA)" zone which is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. The Site also falls within the WBA. The application for temporary container vehicle park with ancillary facilities (including site office and storage) is not in line with the planning intention of the "OU(CDWRA)" zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

### *Not in line with TPB PG-No. 13E*

- 7.3 The application is for temporary container vehicle park with ancillary facilities (including site office and storage). The Site falls within Category 4 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

The Category 4 areas: Applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval condition of the previous planning applications and included in the applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Since the planning intention of Category 4 areas is to phase out the open storage and port back-up uses, a maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merits.

- 7.4 DEP maintains his previous views of not supporting the application as there are sensitive receivers in vicinity of the Site (the nearest residential dwelling is located just about 3-5m to the south of the Site) (**Plan R-2**), and environmental nuisance is expected. Other departments maintain no objection to the application.
- 7.5 According to the TPB PG-No. 13E, the Site falls within Category 4 areas and application would normally be rejected except under exceptional circumstances. The application is not in line with the TPB PG-No. 13E in that no previous approval for vehicle parking uses in “OU(CDWRA)” zone has been granted for the Site (planning permission was granted to application No. A/YL-ST/113 on 17.3.2000 when the Site was then zoned “R(D)” and 3 subsequent similar previous applications under the “OU(CDWRA)” zone were all rejected), and there are adverse comments from DEP and the public; and the applicant has failed to demonstrate that the proposed use would not have adverse environmental impacts on the surrounding areas. Approval of the application would set undesirable precedent and encourage other applications for similar developments in the area. The cumulative effect of approving the similar applications would result in general degradation of the environment of the area.

Previous and Similar Applications

- 7.6 The Site is the subject of 3 previous applications for similar uses within “OU(CDWRA)” zone, all of which were rejected by the Committee between 2001 and 2003. 12 applications for similar container vehicle parking uses at other sites within the “OU(CDWRA)” zones were rejected by the Committee and the Board on review between 2001 and 2007 for reasons of not in line with planning intention of “OU(CDWRA)” zone and the then TPB PG-Nos. 12B and 13C/13D, and insufficient information to demonstrate that the developments would not have adverse ecological, environmental, traffic and drainage impacts. There were 9 applications for similar uses approved in the “OU(CDWRA)” zone. However, they were all approved on special circumstances, with 3 approved to allow for a timely review of the land uses in the area and 1 approved for 1 year with condition prohibiting parking of heavy/container vehicle on the site, and 5 approved by the Board on review or the TPAB for a shorter period of 6 to 12 months on sympathetic grounds to allow time for relocation of the uses to other suitable locations. Rejection of the application is in line with the previous decisions of the Committee and the Board on similar applications in the area.
- 7.7 The Site is subject to planning enforcement action against UD involving uses for place for parking of vehicles and for fuel filling station. EN was issued on 7.3.2019 requiring discontinuation of the UD. Recent site inspection revealed that the UD still continued upon expiry of the notice. Approval of the application may encourage similar UD in the area.

Public Comments

- 7.8 At s.17 stage, there are 12 objecting public comments received raising concerns on grounds that the applied use was not in line with the planning intention of “OU(CDWRA)” zone and WBA, approval of the application would legitimize the UD and set undesirable precedent, and created road safety problems, the

applicant had failed to demonstrate that the development would not have a negative off-site disturbance impact on the surrounding areas (**Annex F**). The planning assessments and departmental comments above are of relevance.

## **8. Planning Department's Views**

- 8.1 Based on the assessments made in paragraph 7 and having taken into account the public comments mentioned in paragraph 6, the Planning Department maintains its previous view of not supporting the review application for the following reason:

the proposed development is not in line with the planning intention of the "OU(CDWRA)" zone, which is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

- 8.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 2 years, instead of the applied 3 years, until 13.3.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (d) the provision of fencing of the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 13.9.2020;
- (e) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.9.2020;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.12.2020;
- (g) the implemented drainage facilities within the Site shall be maintained at all times during the planning approval period;

- (h) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.9.2020;
- (i) in relation to (h) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.12.2020;
- (j) if any of the above planning conditions (a), (b), (c) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (k) if any of the above planning conditions (d), (e), (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (l) 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.

Advisory clauses

The recommended advisory clauses are attached at **Annex G**.

**9. Decision Sought**

- 9.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

**10. Attachments**

<b>Annex A</b>	RNTPC Paper No. A/YL-ST/547
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 21.6.2019
<b>Annex C</b>	Secretary of the Town Planning Board's letter dated 5.7.2019
<b>Annex D</b>	Letter received on 8.7.2019 from the applicant applying for a review
<b>Annex E</b>	FI received on 22.11.2019
<b>Annex F</b>	Public Comments on the Review Application
<b>Annex G</b>	Recommended Advisory Clauses



<b>Drawing R-1</b>	Plan showing Internal Circulation of Vehicles
<b>Plan R-1a</b>	Location Plan with Similar Applications
<b>Plan R-1b and 1c</b>	Previous Application Plans
<b>Plan R-2</b>	Site Plan
<b>Plan R-3</b>	Aerial Photo taken in 2018
<b>Plans R-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT**  
**MARCH 2020**