

TOWN PLANNING BOARD

TPB Paper No. 10484

**For Consideration by
the Town Planning Board on 26.10.2018**

**Review of Application No. A/TY/134
Proposed Temporary Concrete Batching Plant for a Period of 5 Years
in “Other Specified Uses” annotated “Boatyard and Marine-oriented Industrial Uses”
Tsing Yi Town Lots 14 and 15 and Adjoining Government Land,
Tam Kon Shan Road, Tsing Yi**

REVIEW OF APPLICATION NO. A/TY/134
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Temporary Concrete Batching Plant for a Period of 5 Years
in “Other Specified Uses” annotated “Boatyard and Marine-oriented Industrial Uses”
Tsing Yi Town Lots 14 and 15 and Adjoining Government Land,
Tam Kon Shan Road, Tsing Yi**

1. Background

1.1 On 16.8.2016, the applicant, Supreme Enterprises Limited, represented by Top Bright Consultants Ltd., sought planning permission under s.16 of the Town Planning Ordinance (the Ordinance) to use the application site (the Site) for a proposed temporary concrete batching plant for a period of 5 years. The Site falls within an area partly zoned “Other Specified Uses” (“OU”) annotated “Boatyard and Marine-oriented Industrial Uses” on the draft Tsing Yi OZP No. S/TY/27 in force at the time of submission and partly outside the OZP Planning Scheme Boundary (**Plan R-1**). The zoning and development restrictions for the concerned portion of the Site that is covered by the OZP remain unchanged on the current OZP No. S/TY/28. According to the Notes of the OZP, ‘Concrete Batching Plant’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

1.2 On 16.3.2018, the Metro Planning Committee (MPC) of the Board decided to reject the application on the following ground:

The applicant fails to demonstrate that the proposed barging operation by using slipway for the proposed concrete batching plant was feasible, practicable and safe and would not have adverse impact on marine safety and the shipyards nearby.

1.3 For Members’ reference, the following documents are attached:

- (a) MPC Paper No. A/TY/134D (Annex A)
- (b) Extract of minutes of the MPC meeting held on 16.3.2018 (Annex B)
- (c) Secretary of the Board’s letter dated 6.4.2018 (Annex C)
- (d) Applicant’s letter dated 16.4.2018 applying for a review of the MPC’s decision (Annex D)
- (e) Applicant’s letter dated 6.7.2018 requesting for deferment (Annex E)
- (f) Applicant’s letter dated 2.8.2018 enclosing a Marine Risk Assessment and Method Statement, an assessment of existing slipway, structure calculation for the proposed cradle, and supplementary information for barging landing (Annex F)
- (g) Applicant’s letter dated 24.9.2018 enclosing responses to departmental comments including two new photos and materials / information previously submitted during the s.16 application stage (Annex G)
- (h) Applicant’s letter dated 10.10.2018 providing clarification regarding the peak line load (Annex H)

2. Application for Review

- 2.1 On 16.4.2018, the applicant's representative applied, under s.17(1) of the Ordinance, for a review of the MPC's decision to reject the application (**Annex D**). On 6.7.2018, the applicant's representative requested the Board to defer making a decision on the review application for two months so as to allow time for preparation of supplementary information to address departmental comments (**Annex E**). The Board agreed to defer making a decision on the review application for two months on 13.7.2018.
- 2.2 On 2.8.2018, the applicant's representative submitted information in support of the review application, including a Marine Risk Assessment and Method Statement for the proposed concrete batching plant, an assessment on the existing slipway, structure calculation for the proposed cradle, and supplementary information for barging landing (**Annex F**). On 24.9.2018, the applicant's representative submitted further information in response to the comments from the Marine Department including new photos demonstrating the handling capacity of the existing slipway and other materials/information previously submitted during the s.16 application stage (**Annex G**). On 10.10.2018, the applicant's representative submitted a letter to provide clarification regarding the peak line load (**Annex H**).

3. Justifications from the Applicant

The justification put forth by the applicant in support of the review application are detailed in the applicant's submissions at **Annexes F, G and H**. They are summarised as follows:

Barging Operation

- (a) The motorised barges are specially designed to be used particularly for importing the bulk aggregates and cement in quantities of 420 tonnes (**Drawings R-1 and R-2**). When the barge arrives, it will be berthed and grounded on a specially designed and built movable cradle (**Drawing R-3**). The barge together with the cradle will then be pulled by a wire secured to the inshore end of an existing slipway by a suitably rated electric winch mounted on the land within the Site (**Drawing R-4**).
- (b) According to the desktop Marine Risk Assessment and Method Statement (**Annex F**), the proposed operation would be feasible and safe. All of the hazards identified are assessed to be "as low as reasonably practicable". Further mitigations and risk control options, if necessary, have been proposed. Regarding the potential hazards to the barges caused by the swell and/or wave wash effect generated by passing vessels, it is regarded as tolerable, easily predictable and of no greater effect than that encountered by all the other waterfront facilities in the north Tsing Yi.
- (c) Given that the Site was previously used as a ship repair facility where there were already vessels coming for repair, there is little or no change to the use at the Site and risks to the neighbouring uses in terms of marine traffic.
- (d) Prior to commissioning the operation of the proposed concrete batching plant, the applicant will appoint a senior person who is suitably technically competent to convene and arrange a meeting with the fleet manager and captain of the barge

companies. Barge trials will be arranged before commencement of operation to validate the Method Statement and identify concerns arising from the slipping operation and improvements which need to be incorporated into the Standard Operation Procedures (SOPs). The applicant will then prepare a set of SOPs for the barge operation.

Proposed Cradle

- (e) A new cradle (**Drawing R-3**), which will be a trapezoidal steel truss structure with its deck remaining horizontal as it runs up and down the slipway, has been designed for berthing the barges prior to bringing them up the slipway. The design will ensure the barges to seat evenly on the cradle and apply a uniform distribution of loading from the barges at all stages of slipway operation.
- (f) The structure calculation (**Annex F**) has demonstrated that the design of the proposed cradle structure would comply with the requirement as stipulated in Part II of the “Rules for Classification of Sea-going Steel Ships (2015)” (《鋼質海船入級規範(2015)》第二分冊) published by the China Classification Society (中國船級社).

Existing Slipway

- (g) The existing slipway (**Plan R-6**) was constructed in the 1970s and was approved by the Building Authority in 1975. Given that an Occupation Permit has been issued by the Building Authority in 1975, the foundation design must have been considered satisfactory by the Building Authority. According to the diving survey (**Annex F**), it has a total length of 162.5m (**Drawing R-5**). The slipway structure is consisted of steel rails mounted on timber beams spanning over concrete plinths. According to the archive drawing of the slipway, the base of the plinths is founded on firm ground with a safe bearing pressure. Beams above water level appear in reasonable condition, and it is expected that the beams below water which have not been subject to alternate wetting and drying would also be in generally good condition.
- (h) In terms of the design loading of the slipway, it was designed for a maximum vessel weight of 800 tonnes and a peak line loading of about 40 tonnes per metre with a vessel partly in contact at the outer end. The slipway has been in use for over 40 years, including the construction and maintenance of a motor yacht which has a loading of over 50% above the original design loading of the slipway (Appendix A of **Annex G**).
- (i) For the proposed operation, the maximum weight of laden barges would be 775 tonnes, and the total load applied would be of 850 tonnes with the cradle weight of 75 tonnes. With the use of the proposed cradle which would apply a uniform loading on the slipway, the maximum line loading applying to each row of the slipway at the worst case would only be 20 tonnes per metre, which is considerably less than the original design loading. Given the relatively low loading of the barges as compared with the design loading, and that it has sustained from vessels of high loading in the past, it is considered that the existing slipway can be safely used in connection with the proposed use.
- (j) The condition of the rails and fixings on the slipway will be determined by detailed inspection prior to building plan submission for redevelopment. The applicant is

committed to undertake any necessary maintenance or remedial works in the inspection to comply with the relevant building regulations.

- (k) The Occupation Permit issued by the Building Authority covers not only the slipway at land portion but also the portion submerged in water as the slipway was constructed according to the design gradient with the profile of the seabed. Hence, it was not uncommon that part of the slipways along all ship repair yards in north Tsing Yi would fall outside their lot boundaries. The concern that the slipway has extended beyond the limit is an invalid one since it has always been extended and used in the common waters.

4. The Section 16 Application

The Site and Its Surrounding Areas (Plans R-1 to R-3 and Photos on Plans R-4 to R-8)

- 4.1 The situation of the Site and its surrounding areas at the time of consideration of the s.16 application by the MPC are described in paragraph 6 of **Annex A** and recapitulated below. There has been no material change of the situation since then.
- 4.2 The Site:
 - (a) was previously occupied by a shipyard which is now vacant (**Plans R-4 to R-8**);
 - (b) has an existing slipway at the north-eastern portion of TYTL No. 14 which is partly submerged in the water (**Plan R-6**);
 - (c) has an uncovered area in the central portion which is Government land (about 969 m²) under STT 538 K&T for open storage use (**Plan R-2**); and
 - (d) has no direct vehicular access from Tam Kon Shan Road (**Plans R-2, R-3 and R-8**).
- 4.3 The surrounding areas have the following characteristics (**Plans R-1 and R-2**):
 - (a) to the east and west along Tam Kon Shan Road are mainly boatyards. To its further east are public car parks, a proposed community green station (CGS) with operation to be commenced (**Plan R-2**) and Tsing Yi Northeast Park (**Plan R-1**);
 - (b) to the western end of Tam Kon Shan Road is a proposed temporary concrete batching plant which was approved for a period of 5 years on 25.11.2016 (**Plan R-1**), and to its further west is an existing cement loading and storage area and two concrete batching plants within the “OU(Cement Plant)” zone;
 - (c) to the south across Tam Kon Shan Road is another “OU(Boatyard and Marine-oriented Industrial Uses)” zone currently occupied by a temporary car park. The north-western part of the site is subject to Planning Application No. A/TY/125 which was approved for a Portable Emission Measurement System (PEMS) Laboratory proposed by the Environmental Protection Department (**Plan R-2**), which is nearly completed;

- (d) to its north is the sea frontage; and
- (e) the nearest residential development Cheung On Estate is about 400m away from the Site (**Plan R-1**).

Planning Intention

- 4.4 There has been no change of planning intention of the “OU(Boatyard and Marine-oriented Industrial Uses)” zone, which is intended primarily for boatyard and marine-oriented industrial uses.

Previous Applications

- 4.5 There are three previous applications (Planning Application Nos. A/TY/105, A/TY/124 and A/TY/127) submitted by the same applicant at the time of the consideration of the s.16 application. Details of the applications are summarised in paragraph 4 and Appendix II of **Annex A** and their locations are shown on **Plan R-1**. Since then, there has been no additional previous application.
- 4.6 Planning Application No. A/TY/105 was for a proposed warehouse (godown for storage of steel plate and steel materials) which was rejected by the MPC on 9.1.2009 and by the Board upon review on 24.4.2009 on the grounds that there was insufficient information in the submission to demonstrate that there would be no adverse traffic impacts within the application site and that the proposed development would not aggravate the current unsatisfactory traffic conditions in the area. Subsequently, the same applicant submitted two applications (Planning Application No. A/TY/124 and A/TY/127) for a proposed concrete batching plant for a temporary period of 3 years and 5 years respectively. The former was withdrawn by the applicant on 21.8.2014 and the later was rejected by the MPC on 18.12.2015 on the grounds that the applicant failed to demonstrate that the proposed barging operation by using private mooring facility for the proposed concrete batching plant was feasible and the proposed development would not have adverse impacts on road traffic, marine safety and the shipyards nearby; and that the approval of the application would set an undesirable precedent for similar applications.

Similar Applications

- 4.7 There are four similar applications covering the same location (Planning Application Nos. A/TY/62, A/TY/91, A/TY/108 and A/TY/130) submitted by the same applicant for temporary concrete batching plant at a site nearby at the time of the consideration of the s.16 application. Details of the similar applications are summarised in paragraph 5 and Appendix III of **Annex A** and their locations are shown on **Plan R-1**. Since then, there has been no additional similar application.
- 4.8 Planning Application No. A/TY/62 was approved with conditions by the MPC on 12.1.2001 on a temporary basis for a period of 5 years up to 12.1.2006, and Planning Application No. A/TY/91 for renewal of the planning approval under Planning Application No. A/TY/62 was approved with conditions by the MPC on 4.3.2005 for a further period of 5 years up to 4.3.2010. Subsequently, Planning Application No. A/TY/108 for renewal of the planning approval under Planning Application No. A/TY/91 for another 5 years was rejected on the grounds that no Traffic Impact Assessment (TIA) had been submitted to demonstrate that the

proposed development would not have adverse traffic impact on the surrounding area. With the submission of an updated TIA considered accepted by the Transport Department, the application was approved with conditions by the Board on review on 6.8.2010 for a period of 5 years up to 6.8.2015. Planning Application No. A/TY/130 for renewal of the planning approval under Planning Application No. A/TY/108 was approved with conditions by the MPC on 25.11.2016 for a period of 5 years up to 25.11.2021. The applicant is in the process of complying with the approval conditions, and the proposed concrete batching plant has yet to commence operation.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 8 and Appendix V of **Annex A**.
- 5.2 For the review application, relevant Government departments have been further consulted. The following Government departments maintain their previous views and have further comments as summarised below:

Marine Safety

5.2.1 Comments of the D of Marine:

- (a) regarding the information provided by the applicant in support of the review application (**Annexes F and G**), he considers from marine traffic and safety point of view that it is still insufficient to illustrate that the proposed operations are feasible, practicable and safe and would not have adverse impact on marine safety and to the shipyards nearby;
- (b) detailed comments are as follows:
 - (i) the Visual Vessel Traffic Survey (**Annex G**) states that the average number of vessels passing in the vicinity would range from about 14 to 23 numbers per hour. However, the identified hazards examined in paragraph 3.6 of the Marine Risk Assessment (**Annex F**) has not taken into account the hazard to the barges caused by the swell and/or wave wash effect generated by these vessels passing in the vicinity during the berthing/unberthing operations, which should not be overlooked.
 - (ii) in relation to the applicant's responses that the swell and/or wave wash effect would be tolerable and easily predictable, he does not concur with such view as there were previous complaints from the nearby shipyard operators on the swell and/or wave wash effect created by the passing vessels such as tugboats, which would endanger the safety of adjacent shipyard operations;
 - (iii) paragraph 3.10 of the Marine Risk Assessment has not sufficiently considered the rate and frequency of vessels that

will come and go with cargoes for the proposed concrete batching plant, which are much higher than the site previously used as a ship repair facility. The risk assessment mentioning that there is little or no change to the risks to neighbours are also considered unrealistic and the risks caused by the proposed plant to the shipyard operations in the vicinity should not be neglected;

- (iv) with reference to paragraph 3.18 and 3.19 of the Marine Risk Assessment, the swell and/or wave wash effect caused by the passing vessels has not been considered for 'Hazard No. 6 – Barge strikes cradle'. For 'Hazard No. 17 – Barge is trimmed by head or stern instead of even keel', there are no details about the measures or procedures to be taken for the vessels to arrive on an even keel. Hence, the reliability of the resulted risk scores provided in the assessment is in doubt;
- (v) regarding the Method Statement (**Annex F**), it is apparent that the current submission has not proposed any changes to the principles and method employed for the proposed barging operation at the stage of s.16 application, thus it has not clarified his concerns as to whether the proposed barging operations are feasible, practicable and safe;
- (vi) an underkeel clearance (UKC) of 0.5m is considered unsafe for the barge to use its engine and bow thruster in manoeuvring itself to sit on top of the cradle since the proposed concrete batching plant is located in shallow water areas where shallow water effect has to be taken into account. While the applicant claims that the proposed UKC of 0.5m is almost 25% of the draft, and that only an UKC of 10% of the static draft would be typically required for large ships like oil tankers and container ships in most ports, he advises that the 10% requirement is generally for sheltered fairway and confined water area. It is, however, not applicable to this case as the proposed barging operation is located in shallow water areas and the swell and/or wave wash effect created by passing vessels should also be taken into account. An insufficient UKC would easily lead to damage both to the barge and to the cradle since the barge may be affected by the swell and/or unexpected wave wash effect generated by vessels passing in the vicinity during the berth/unberthing operations;
- (vii) paragraph 1(5)(b) of the supplementary information for barging landing submitted in Chinese (i.e. 船舶上下排及卸貨作業方案補充內容) states that the engine and bow thruster will be stopped and subsequent position adjustment of the vessel will be conducted by winches on board and ashore only. However, this contradicts with paragraph 12 of the Method Statement under the "Barge Trial" section as well as the applicant's responses in **Annex F** which state that engine power shall be used to ground the vessel into the cradle. Given the above, the risks of underwater moving parts in contact with

underwater structures are not addressed in the Marine Risk Assessment;

- (viii) loading and discharging activities carried out on a cradle where the vessel is being raised above water level is not a common practice. The captains may not have the experience in carrying out such manoeuvring. The safety concerns relating to the proposed barging operations should be properly addressed with utmost seriousness;
- (ix) there is insufficient information to demonstrate how to prevent the barge from listing and slipping off from the proposed cradle;
- (x) he has reservation on any proposed physical barge trial unless all the doubts and safety concerns about the proposed berthing/unberthing operations are resolved;
- (xi) for the existing slipway, the applicant has yet to provide sufficient information to illustrate the actual conditions of the slipway and the actual site foundation and seabed condition. The diving report indicates that majority part of the slipway is covered by mud. Without carrying out proper site investigation, the current site foundation and sea bed condition are still considered unclear. It still remains unclear whether the size, strength and conditions of the existing slipway are suitable for handling the proposed barging operations;
- (xii) regarding the applicant's claim that the slipway has been used to construct and maintain a motor yacht, relevant photos (**Annex G**) only show that the yacht was sitting/being built in the slipway and launching in 1983. There is still insufficient information or evidence to prove that the existing slipway can perform the proposed barging operations;
- (xiii) according to the diving survey report (**Annex F**), the total length of the slipway is 162.5m. About 125m of the existing slipway submerges in water where 47m are above seabed and 78m are below seabed (**Drawing R-5**). However, with reference to the lot boundaries of the subject lots, the size of the slipway of approximately 162.5m would exceed the site boundary of the subject lot, and would reduce sea room for safe navigation of vessels in the vicinity;
- (xiv) the practicability of the proposed berthing/docking operation would depend on the strength of the existing seabed to afford the fully laden barges, whether the proposed arrangement/facility and the modification works required are permissible under the relevant legislation (such as Foreshore and Sea-bed (Reclamations) Ordinance, Cap. 127 and Protection of the Harbour Ordinance, Cap. 531) and the lease conditions. If the above pre-requisite requirements could not be met, the proposed berthing/docking operations would be a non-starter.

- (c) he also maintains his other previous views on the s.16 application as stated in paragraph 8.1.5 of **Annex A** and recapitulated below:
- (i) from marine traffic and safety point of view, the Barging Operation Plan (BOP) submitted by the applicant (including Appendices Id, Ig, Ij, Ip, Iq, Ir, Is and It of **Annex A**) is considered insufficient to demonstrate and illustrate that the proposed barging operations are safe, feasible and practicable;
 - (ii) the responses provided by the applicant (Item 3 in Attachment 2 of Appendix It of **Annex A**) still cannot clarify the issues relating to the proposed size of the slipway which would exceed the boundary of the Site, and whether the strength of the existing slipway/seabed can afford the fully laden barges. The responses mentioned that the applicant will take note of this advisory comment and prepare to make submission for relevant approvals in future if the modification works of the existing slipway are required. Hence, it still remains unclear whether the size, strength and conditions of the existing slipway are suitable for handling the proposed barging operations;
 - (iii) according to the revised proposed vessel landing and launching scheme (i.e. revised paragraph 3(5)(e) of the replacement page of BOP in Attachment 2 of Appendix It of **Annex A**), if the force of the vessel is unevenly loaded on wooden dolphins at the cradle structure during the vessel landing, the vessel will be returned to the sea and the wooden dolphins will be adjusted for re-landing. With reference to the previous responses provided by the applicant in January 2018 (Appendix Iq of **Annex A**) to the comments on wedging operation and necessary precautionary measures, it is mentioned that “no diving operations would be involved because the vessels would be out of water at this step”. The responses provided by the applicant are inconsistent and the applicant has yet to provide details to demonstrate that the wedging operation is safe, feasible and practicable;
 - (iv) the applicant has yet to provide details to demonstrate and illustrate clearly that the mooring of a proposed barge to the cradle structure is safe, feasible and practicable; nor demonstrate how the proposed berthing or docking operation can be implemented safely under the existing slipway and site condition, without causing interference to the safe navigation of vessels in the vicinity;
 - (v) with reference to the “Aggregate Unloading Procedure” in Appendix H of Appendix Iq of **Annex A**, the applicant has briefly described and illustrated the built-in conveyor belt of the aggregate barge would be rotated at right angle to the barge for discharging aggregate. The applicant has been requested to provide information about the safety measure of such

operation. Although the applicant responded that this requirement can be imposed as an approval condition, the applicant has yet to provide information about the safety measures to be adopted and implemented for the proposed unloading arrangements so that it can be carried out safely without causing the listing of the barge as the raw materials inside the barge may not be evenly distributed and liable to shifting during the unloading process;

- (vi) the applicant has been requested to provide detailed information or contingency plan to substantiate how the proposed barging operations could be implemented safely. However, the applicant has not provided the requested information and responded that it will be more appropriate for the competent person(s) to provide the required detailed information/contingency plan when the application is approved by the Board;
- (vii) for the communication with the nearby shipyards, the applicant has yet to provide sufficient information in relevant sections of the BOP to illustrate how the operations of the proposed number of vessel trips would be coordinated with other operators nearby, such that the proposed barging operations could be conducted without causing adverse impacts to nearby facilities and marine traffic in the vicinity; and
- (viii) other detailed comments are listed out in Appendix V of **Annex A**.

5.2.2 Comments of the Chief Engineer/Port Works, Civil Engineering and Development Department (CE/PW, CEDD):

- (a) he maintains his previous views of having no comment on the s.16 application; and
- (b) the applicant is further reminded to make necessary submissions to relevant departments should the applicant proceed with their operation, and should ensure that the stability of the seawall is not affected by the proposed operation.

Building Matters

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

- (a) there is no record of structural drawing for the slipway at TYTL No. 14. While there are approved structural drawings for TYTL No. 15, there is no record showing that the slipway at TYTL 15 was designed for vessels of 800 tonnes;

- (b) regarding the applicant's claim that the Occupation Permit issued by the Building Authority covers also the portion of slipway submerged in water, this has not been specified in the Occupation Permit;
- (c) he also maintains his previous views on the s.16 application as stated in paragraph 8.1.14 of **Annex A** and recapitulated below:
 - (i) statutory submission for BD's approval is required for all building works involved including any demolition/alteration and additions works for the existing building;
 - (ii) the applicant's attention is drawn to the Practice Note for Authorized Persons, Registered Structural Engineering and Registered Geotechnical Engineer (PNAP) APP-120;
 - (iii) detailed comment will be given upon receipt of submission of general building plans; and
 - (iv) the building plans approved on 8 July 1975 indicated that the slipways were 138 feet (approximately 42.0624m) long at TYTL Nos. 14 and 15.

Land Administration

5.2.4 Comments of the DLO/TW&KT, LandsD:

- (c) regarding the information provided by the applicant in support of the review application (**Annex F**), the proposed cradle for the barges to be operated beyond the lot boundary of TYTL No. 14 (**Drawing R-4**) is considered not acceptable under the lease;
- (d) she also maintains her other previous views on the s.16 application as stated in paragraph 8.1.1 of **Annex A** and recapitulated below:
 - (i) the Site falls within TYTL Nos. 14, 15 and a piece of Government land currently let under STT No. 538 K&T. According to the lease conditions governing TYTL Nos. 14 and 15, both lots are restricted to ship/boat building and repairing purposes whereas under the Tenancy Agreement of STT 538 K&T, the STT site is restricted for the purpose of open storage only. TYTL No. 15 is subject to a temporary waiver dated 19.11.1998 to allow to erect and operate an existing jetty on its coloured blue area (**Plan R-2**). In this regard, the proposed use for a concrete batching plant is not acceptable under both the lease conditions and the STT;
 - (ii) the original intention of granting the STT was to permit the tenant to occupy the concerned tenancy area for open storage use after completion of construction of a culvert. The proposed change of use from open storage to form part of the concrete batching plant will be considered by LandsD provided that relevant policy support for such material change of user is obtained. In this regard, the applicant's proposal for

requesting a permanent vehicular access at Tam Kon Shan Road for serving the proposed concrete batching plant will not be considered by this office at this juncture;

- (iii) the slipway falls outside the lot boundary and hence it is not acceptable from the lease (Appendix Is and Drawing A-8 of **Annex A**);
- (iv) if the planning application is approved by the Board, the lot owner/tenant should apply to the LandsD for a temporary waiver for the amendment of the user in respect of TYTL Nos. 14 and 15 and a modification of STT 538 K&T for the amendment of the user subject to paragraph 5.2.3 (b)(ii) above and the addition of the vehicular access via the Government land (as a non-exclusive right of way to the tenancy area) subject to the comments of Drainage Services Department (DSD) and the agreement of Transport Department (TD) and the Highways Department (HyD). The application will be considered by the LandsD acting in the capacity as landlord at its sole discretion. There is no guarantee that any such application will be approved by the Government. Any approval if given will be subject to such terms and conditions including, inter alia, payment of waiver fee/rental and administration fee as may be approved by the Government; and
- (v) other detailed comments are listed out in Appendix V of **Annex A**.

Occupational Safety and Health

5.2.5 Comments of the C for Labour:

- (a) regarding the information provided by the applicant in support of the review application, he has the following comments on the supplementary information for barging landing (**Annex F**) to safeguard the occupational safety of workers involved in the work activities on the land side:
 - (i) it appears that the “拖曳設備和設施” mentioned in paragraph 1(2) is a lifting appliance/lifting gear. On such understanding, the said equipment shall be weekly inspected by a competent person, tested and thoroughly examined by a competent examiner, and properly maintained in accordance with the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, Cap. 59J;
 - (ii) in connection with item (i) above and according to regulations 16(1) and 16(2) of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations, Cap. 59J, the machinery of “岸上絞車” mentioned in paragraphs 1(2), 1(5) and 1(6) shall be fitted with one or more efficient brakes or other similar safety devices to prevent a load suspended

from the appliance from falling uncontrollably or dangerously. Every level, handle, switch or other devices used for controlling the operation of the appliance shall be provided with a suitable spring or other locking system to prevent any accidental movement or displacement and have clear markings to indicate its purpose and the mode of operation;

- (iii) the dangerous parts of “岸上絞車” shall be effectively guarded in accordance with the Factories and Industrial Undertakings (Guarding and Operation of Machinery) Regulations, Cap. 59Q and the Occupational Safety and Health Regulation, Cap. 509A. The area of operation should also be fenced off and nobody is allowed to work in the vicinity of the winch during its operation;
 - (iv) regarding paragraph 1(3), the proprietor/employer/occupier should ensure that the appointed supervisors are competent to monitor the work activities under their purview so that they are carried out in accordance with the relevant method statements, safety rules and instructions, etc., and are suitably trained with sound experience in the work activities, and possess the necessary information about the safety system of work including but not limited to the risk assessment findings, method statements, safe working procedures and risk control measures, contingency plans, etc.;
 - (v) similar to (iv) above, the proprietor/employer/occupier should also ensure that the workers engaged are adequately trained on the safety and health at work and have received necessary information, instruction and supervision so as to ensure their competence and observance of relevant safety precautions in undertaking the work;
 - (vi) as regards the provision of lifejackets and buoyancy aid mentioned in paragraph 1(3), the proprietor/employer/occupier should ensure every worker at work that would have a foreseeable risk of falling into water to wear the lifejacket;
- (b) he also maintains his other previous views as stated in paragraph 8.1.7 of **Annex A** and as recapitulated below:
- (i) from occupational safety and health point of view, adequate buffer zones with clear marking to edges over water should be demarcated to keep away operators of moving plant from edges over water; and
 - (ii) for the health and safety issues (Section 4.7 of the replacement page of the BOP in Attachment 1 of Appendix It of **Annex A**), the applicant should establish and implement an effective supervision and control system to ensure the devised safe working procedures and safety precautions are strictly followed; and the compliance with the provision of general duties under the Factories and Industrial Undertakings

Ordinance, Cap. 59 and Occupational Safety and Health Ordinance, Cap. 509.

District Officer's Comments

5.2.6 Comments of the District Officer (Kwai Tsing), Home Affairs Department (DO(K&T), HAD):

- (a) with regard to the review application, his office has posted the application on their notice boards of their office and the Cheung Fat Estate Community Centre within the publication periods from 27.4.2018 to 18.5.2018 and from 17.8.2018 to 7.9.2018 and has not received any comments on the application;
- (b) while he has not received any comments in the recent public inspection from 27.4.2018 to 18.5.2018 and from 17.8.2018 to 7.9.2018, he notes that Tung Yee Shipbuilding Repairing Merchants General Association Limited (the Association) has all along objected to the application and it is very likely that the Association will uphold its stance of objection to the proposal. Comments by different parties should be taken into account when the application is considered;
- (c) he also maintains his other previous views as stated in paragraph 8.1.7 of **Annex A** and as recapitulated below:
 - (i) there is one existing concrete batching plant at Tam Kon Shan Road. He has received complaints regarding illegal parking of vehicles, concerns of pollution and traffic issue against the existing concrete batching plant. In view of the above, an additional concrete plant is likely to attract local concerns about the impacts that it will bring to the local community, including but not limited to traffic flow, hygiene and pollution;
 - (ii) he has no departmental views from the technical perspective.

Harbourfront Planning

5.2.7 Comments of the Harbour Office, Development Bureau:

- (a) the gist of the review application has been circulated to Members of Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing on 22.8.2018. No comment has been received from the Members.
- (b) he also maintains his previous views as stated in paragraph 8.1.12 of **Annex A** and as recapitulated below:
 - (i) he has no particular comment on the planning application from harbourfront enhancement point of view. He notes that the Site is surrounded by industrial uses; and

- (ii) as regards consultation with the Harbourfront Commission (HC), he has invited the applicant but the applicant declined to consult HC.

5.3 The following Government departments have no further views/comments on the review application and maintain their previous views on the s.16 application:

Traffic

5.3.1 Comments of the Commissioner for Transport (C for T) as stated in paragraph 8.1.2 of **Annex A** are recapitulated below:

- (a) based on the applicant's responses to his comments on the TIA and the supplementary information submitted, he has no comment on the application from traffic engineering point of view;
- (b) should the application be approved, the following conditions should be imposed:
 - (i) the submission and implementation of a traffic management plan including information on the proposed maximum hourly concrete processing capacity, contingency plan, associated mitigation measures to the satisfaction of the C for T and the Commissioner of Police (C of P);
 - (ii) the design of road works and pedestrian facilities, as proposed by the applicant, and the implementation, management and maintenance of approved road works and pedestrian facilities at the applicant's own costs to the satisfaction of C for T and Director of Highways (D of Hy);
 - (iii) in relation to the above approval condition (ii), upon the expiry of the planning permission, the reinstatement of the concerned public road and public footpath to the arrangement as at the time before the planning permission to the satisfaction of the C for T and the D of Hy; and
 - (iv) no queuing on public roads in the vicinity of the application site resulting from the operation of the proposed concrete batching plant shall be allowed at any time during the planning approval period.

5.3.2 Comments of the C of P as stated in paragraph 8.1.3 of **Annex A** are recapitulated below:

- (a) the applicant shall provide traffic management plan for emergency situation and when the Site is unable to accommodate the incoming trucks;
- (b) with the mitigation measures recommended in the applicant's further information submitted on 13.12.2016 (Appendix Id of **Annex A**), he has no adverse comment on the application; and

- (c) should the application be approved, the following condition should be imposed:

the submission and implementation of a traffic management plan including information on the proposed maximum hourly concrete processing capacity, contingency plan, associated mitigation measures to the satisfaction of the C for T and the C of P.

5.3.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) as stated in paragraph 8.1.4 of **Annex A** are recapitulated below:

- (a) it is noted that a vehicular access ramp together with two pedestrian ramps are proposed and the applicant agrees to undertake the detailed design/construction/maintenance responsibilities of the proposed access ramp system from Tam Kon Shan Road to the Site;
- (b) he has no comment on the application from highway maintenance point of view provided that the design, implementation, management and maintenance of the proposed road works including the ramp and run-in/out, etc. proposed by the applicant are to the satisfaction of HyD; and
- (c) should the application be approved, the following condition should be imposed:

the design of road works and pedestrian facilities, as proposed by the applicant, and the implementation, management and maintenance of approved road works and pedestrian facilities at the applicant's own costs to the satisfaction of C for T and D of Hy.

Safety on Electricity Supply

5.3.4 Comments of the Director of Electrical and Mechanical Services (DEMS) as stated in paragraph 8.1.6 of **Annex A** are recapitulated below:

- (a) he has no particular comment on the application from electricity supply safety point of view; and
- (b) 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 concerned site. They 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.

Environment

5.3.5 Comments of the Director of Environmental Protection (DEP) as stated in paragraph 8.1.8 of **Annex A** are recapitulated below:

- (a) based on the applicant's responses to his comments on the Environmental Assessment (EA) and the supplementary information submitted, he has no comment on the application;
- (b) should the application be approved, the following condition should be imposed:

the completion of land contamination assessment and remediation works including the submission of Contamination Assessment Plan, Contamination Assessment Report, Remediation Action Plan and Remediation Report before the commencement of construction of the proposed concrete batching plant; and

- (c) a Specified Process Licence under the Air Pollution Control Ordinance is required for the operation of the proposed concrete batching plant, and the requirement as stipulated in the Best Practicable Means for Cement Works (Concrete Batching Plant) BPM 3/2 will have to be complied with.

Fire Safety

5.3.6 Comments of the Director of Fire Services (D of FS) as stated in paragraph 8.1.9 of **Annex A** are recapitulated below:

- (a) he has no objection to the application subject to water supplies for firefighting and fire service installations being provided to his satisfaction. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
- (b) the provision of emergency vehicular access shall comply with the standard as stipulated in Section 6, Part D of the 'Code of Practice for Fire Safety in Building 2011' under the Building (Planning) Regulation 41D which is administered by the Buildings Department.

Urban Design and Landscape

5.3.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) as stated in paragraph 8.1.10 of **Annex A** are recapitulated below:

Urban Design

- (a) the Site is located along Tam Kon Shan Road at the northern coast of Tsing Yi within an area intended for boatyard and marine-oriented industrial uses; and
- (b) the proposal involves modification of the two existing structures to accommodate the required facilities and ancillary uses. Existing

structures within the subject zone and along Tam Kon Shan Road range from about 7mPD to 23mPD in height (based on site survey information). The proposed development with a maximum building height of 25m may be slightly taller than the surrounding developments. Nevertheless, from a visual point of view, the proposed development is not considered incompatible with the surrounding context and significant adverse visual impact is not anticipated.

Landscaping

- (a) the Site is surrounded by existing boatyard/marine-related industrial activities. According to the aerial photo in 2014, no existing tree was found within the site boundary. The proposed use in general is not incompatible with the surrounding landscape environment, and further significant adverse impact on landscape is not expected. As such, there is no objection to the application from the landscape planning perspective; and
- (b) according to the preliminary layout plan, it seems that there is not much space available for landscaping within the application site. As such, the implementation of landscape condition is not required should the case be approved by the Board.

5.3.8 Comments of the Director of Leisure & Cultural Services Department (DLCS) as stated in paragraph 8.1.11 of **Annex A** are recapitulated below:

he has no comment on the application as long as the trees at the public road outside TYTL No. 14 under his maintenance (upper photo on **Plan R-4**) will not be affected.

Drainage

5.3.9 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) as stated in paragraph 8.1.13 of **Annex A** are recapitulated below:

- (a) the existing box-culvert STT 538 K&T, which is sandwiched between TYTL Nos. 14 and 15, is currently maintained by the tenant of STT 538 K&T; and
- (b) the CE/MS, DSD and his officers and the workmen shall have free access at all times to the drainage reserve area (a box-culvert under the Government land portion) for emergency works during stormy season.

5.4 The following Government departments maintain their previous views of having no objection to/no comments on the application:

- (a) Chief Engineer/Development (2), Water Supplies Department (CE/Dev(2), WSD);
- (b) Director-General of Trade and Industry (DG of TI); and

- (c) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD).

6. Public Comments Received During Statutory Publication Period

- 6.1 On 24.7.2018, the review application was published for public inspection. The subsequent further information submitted by the applicant which is not exempted from publication requirement was also published for public comment on 17.8.2018. During the statutory public inspection periods, a total of 4 public comments were received.
- 6.2 All of the 4 public comments object to the review application (**Annex I**). These public comments are submitted by a District Council member, Leung Wan Kee Shipyard Ltd, and Tung Yee Shipbuilding and Repairing Merchants General Association Ltd.
- 6.3 The objection grounds are mainly as follows:
 - (a) the proposed development is not in line with the planning intention of the subject land use zone and the restricted use under the STT, which is also not compatible with the surrounding shipyards. The subject site is more suitable for residential use instead of the development of concrete batching plant;
 - (b) the proposed development would bring about adverse impact on marine safety and operations; adverse traffic impact including traffic congestion, pedestrian safety, illegal parking; adverse environmental impacts including air/dust pollution and sea water pollution; adverse impact on hygiene and the health of shipyard workers/residents/visitors of the Tsing Yi Northeast Park nearby, and on the operation of the ship repair in the vicinity; and
 - (c) the proposed temporary use of a period of 5 years is considered too long and may hinder the long-term development of the site. Any temporary permission should be shortened to not more than 1 year.

7. Planning Considerations and Assessments

- 7.1 The application seeks to use the Site for a proposed temporary concrete batching plant for a period of 5 years. The MPC rejected the s.16 application on the ground that the applicant fails to demonstrate that the proposed barging operation by using slipway for the proposed concrete batching plant was feasible, practicable and safe and would not have adverse impact on marine safety and the shipyards nearby.
- 7.2 To support the current s.17 review application, the applicant submitted a Marine Risk Assessment (**Annex F**) which indicates that the identified potential hazards in relation to the barging operation will be as low as reasonably practicable. The applicant also reiterates that any risks to the barges caused by the swell and/or wave wash effect generated by passing vessels would be tolerable, easily predictable and of no greater effect than that encountered by all the other waterfront facilities in the north Tsing Yi, and that there is little or no change to the risks to neighbours as compared with the previous ship repair facility. However, D of Marine does not concur to such view as the Risk Marine Assessment has not sufficiently considered

the rate and frequency of vessels in association with the proposed concrete batching plant, which are much higher than the site previously used as a ship repair facility. There were also previous complaints from the nearby shipyard operators on the swell and/or wave wash effect created by the passing vessels such as tugboats, which would endanger the safety of adjacent shipyard operations and should not be neglected.

- 7.3 In response to D of Marine's previous comments on the s.16 application regarding the barging operation, the applicant has also submitted a Method Statement and supplementary information for barging landing (**Annex F**) to demonstrate that the proposed barging operation would be feasible, practicable and safe. However, D of Marine commented that the current submission has not made any changes to the principles and method employed for the proposed barging operation as compared to that submitted for the s.16 application. Thus, the submission has not addressed his concerns as to whether the proposed barging operations are feasible, practicable and safe from marine traffic and safety point of view.
- 7.4 Regarding the condition of the existing slipway, the applicant has submitted an assessment of the slipway (**Annex F**) indicating that the slipway is in good condition and can be safely used in connection with the proposed concrete batching plant. The applicant also reiterates that the slipway was approved by the Building Authority in 1975, and was constructed with a design load that can handle the proposed operation. In this regard, D of Marine commented that the applicant has yet to provide sufficient information to illustrate the actual conditions of the slipway and the actual site foundation and seabed condition. Without carrying out proper site investigation, it still remains unclear whether the size, strength and conditions of the existing slipway are suitable for handling the proposed barging operations. In view of the above and from marine traffic and safety perspective, D of Marine maintains the view that there is still insufficient information to illustrate that the proposed operations is feasible, practicable and safe and will not have adverse impact on marine safety and the shipyards nearby. CBS/NTW, BD also advised that there is no record of structural drawing for the slipway at TYTL No. 14. While the applicant indicates that the existing slipway is 162.5m long (**Drawing R-5**) and that the Occupation Permit issued by the Building Authority covers also the portion submerged in water, CBS/NTW, BD further advised that this has not been specified in the Occupation Permit, and that the slipways are approximately 42m long at the Site as indicated on the approved building plans.
- 7.5 As regards the public comments, the proposed concrete batching plant partly falls within the "OU(Boatyard and Marine-oriented Industrial Uses)" zone which is intended primarily for boatyard and marine-oriented industrial use. The Site is situated in the northeast Tsing Yi where a mix of shipyards, three existing/proposed concrete batching plants, government use (i.e. the PEMS Laboratory and the CGS) and temporary car parks (**Plans R-1 and R-2**). The proposed concrete batching plant is considered not in conflict with the planning intention for the Site from land use point of view. Regarding the concerns on traffic and environmental concerns, C for T, C of P and DEP maintain their previous views of having no adverse comment on the application, and their concerns on traffic management, design of traffic facilities and environmental concerns can be addressed through incorporation of approval conditions if the application is approved.

8. **Planning Department's Views**

- 8.1 Based on the assessments made in paragraph 7, having taken into account the public comments as mentioned in paragraph 6 and given that there is no major change in the planning circumstances since the consideration of the s.16 application by the MPC on 16.3.2018, the Planning Department maintain its view of not supporting the application for the following reason:

The applicant fails to demonstrate that the proposed barging operation by using slipway for the proposed concrete batching plant is feasible, practicable and safe and will not have adverse impact on marine safety and the shipyards nearby.

- 8.2 Alternatively, should the Board decide to approve the application on review, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 26.10.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no queuing on public roads in the vicinity of the application site resulting from the operation of the proposed concrete batching plant shall be allowed at any time during the planning approval period of the proposed concrete batching plant;
- (b) the submission and implementation of water supplies for fire fighting and fire service installations proposals before commencement of the operation of the proposed development to the satisfaction of the Director of Fire Services or of the Board;
- (c) the submission of a traffic management plan including information on the proposed maximum hourly concrete processing capacity, contingency plan, associated mitigation measures before commencement of the operation of the proposed development to the satisfaction of the Commissioner for Transport and the Commissioner of Police or of the Board;
- (d) the implementation of an approved traffic management plan at the applicant's own costs including the maximum hourly concrete processing capacity, contingency plan, associated mitigation measures during the planning approval period of the proposed development to the satisfaction of the Commissioner for Transport and the Commissioner of Police or of the Board;
- (e) the design and implementation of road works and pedestrian facilities, as proposed by the applicant and at the applicant's own cost, before commencement of the operation of the proposed development to the satisfaction of Commissioner for Transport and the Director of Highways or of the Board;
- (f) the management and maintenance of approved road works and pedestrian facilities, at the applicant's own costs, during the planning approval period of the proposed development to the satisfaction of Commissioner for Transport and Director of Highways or of the Board;

- (g) the submission of a revised barging operation plan setting out details of the type and size of the vessel/barge involved, relevant operation, mooring arrangement, etc., before commencement of the operation of the proposed development to the satisfaction of the Director of Marine or of the Board;
- (h) the implementation of an approved barging operation plan during the planning approval period of the proposed development to the satisfaction of the Director of Marine or of the Board;
- (i) the design and implementation of the proposed barges before commencement of the operation of the proposed development to the satisfaction of the Director of Marine or of the Board;
- (j) the completion of land contamination assessment and remediation works including the submission of Contamination Assessment Plan, Contamination Assessment Report, Remediation Action Plan and Remediation Report before the commencement of construction of the proposed development to the satisfaction of the Director of Environmental Protection or the Board;
- (k) in relation to the above approval conditions (e) and (f), upon the expiry of the planning permission, the reinstatement of the concerned public road and public footpath to the arrangement as at the time before the planning permission to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Board;
- (l) if the above planning condition (a), (d), (f) or (h) is not complied during the planning approval period, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice;
- (m) if the above planning condition (j) is not complied before commencement of construction of the proposed development, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (n) if any of the above planning conditions (b), (c), (e), (g) or (i) is not complied with before the commencement of the operation of the proposed development, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

9. Decision Sought

- 9.1 The Board is invited to consider the application for a review of the MPC'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

Annex A	MPC Paper No. A/TY/134D
Annex B	Extract of minutes of the MPC meeting held on 16.3.2018
Annex C	Secretary of the Board's letter dated 6.4.2018
Annex D	Applicant's letter dated 16.4.2018 applying for a review of the MPC's decision
Annex E	Applicant's letter dated 6.7.2018 requesting for deferment
Annex F	Applicant's letter dated 2.8.2018 enclosing a Marine Risk Assessment and Method Statement, an assessment of existing slipway, structure calculation for the proposed cradle, and supplementary information for barging landing
Annex G	Applicant's letter dated 24.9.2018 enclosing responses to departmental comments including two new photos and materials / information previously submitted during the s.16 application stage
Annex H	Applicant's letter dated 10.10.2018 providing clarification regarding the peak line load
Annex I	Public comments received
Annex J	Advisory Clauses
Drawings R-1 to R-2	Proposed Aggregates and Cement Barges
Drawing R-3	Cradle Structure Plan
Drawing R-4	Proposed Barging Operation
Drawing R-5	Elevation of Existing Slipway
Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Aerial Photo
Plans R-4 to R-8	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2018**