

Government Departments with No Objection/No Adverse Comment

The following government departments have no objection to or no adverse comment on the application:

- (a) Commissioner for Transport;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (d) Director of Environmental Protection;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Engineer/Construction, Water Supplies Department;
- (g) Director of Fire Services;
- (h) Director of Food and Environmental Hygiene;
- (i) Project Manager (North), Civil Engineering and Development Department (CEDD);
- (j) Head of the Geotechnical Engineering Office, CEDD;
- (k) Chief Building Surveyor/New Territories West, Buildings Department; and
- (l) District Officer (Tai Po), Home Affairs Department.

Recommended Advisory Clauses

- (a) to note the comments of the District Land Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) the application site (the Site) is situated on the Government land (GL), which is covered by Short Term Tenancy (STT) No. 1032 for the purpose of a sitting-out area for restaurant use associated with the restaurant now operating on the adjoining Lots 748 RP, 803 and 882 in D.D. 28;
 - (ii) the GL adjoining to the site of STT No. 1032, which is not included in the application has been illegally occupied with unauthorized structure(s) without permission. The tenant of STT No. 1032 should immediately rectify the breach of the tenancy conditions. As any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28), his office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;
 - (iii) there is no Small House application within the Site; and
 - (iv) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto;
- (b) to note the comments of the Director of Environmental Protection (DEP) that the applicant is reminded to:
 - (i) follow the relevant mitigation measures and requirements in 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance;
 - (ii) carry out pollution abatement measures in relevant guidelines, including 'General Environmental Guidelines for Outside Seating Accommodation (OSA)' and 'Control of Oily Fume and Cooking Odour from Restaurants and Food Business'; and
 - (iii) meet the statutory requirements under relevant pollution control ordinances;
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no existing DSD maintained public drain available for connection in the area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also

be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (ii) there are existing public sewers in the vicinity of the Site. The drainage record plan is at **Attachment 1** for ease of reference; and
 - (iii) the applicant shall resolve any conflict/disagreement with relevant lot owner(s) and seek LandsD's permission for laying new drains/channels and/or modifying/upgrading existing ones in other private lots or on GL (where required) outside the Site;
- (d) to note the comments of the Director of Fire Services (D of FS) that the existing fire services installations implemented on the Site shall be maintained in efficient working order at all times;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NW, BD) that:
- (i) according to record, there is a temporary building approved by Building Authority (BA) at the Site with issuance of temporary occupation permit (Permit No. NT 9/2007(TOP)) which was renewed up to 20.11.2028;
 - (ii) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the BO and should not be designated for any applied use under the application; and
 - (iii) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be constructed as an acceptance of any existing building works or UBW on the Site under the BO; and
- (f) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
- (i) no Food and Environmental Hygiene Department (FEHD)'s facilities should be affected;
 - (ii) proper licence/permit issued by FEHD is required if there is any food business/catering service/activities regulated by DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The operation of any eating place should be under a food licence issued by FEHD. If the operator intends to operate a restaurant business in the territory, a restaurant licence should be obtained from FEHD in accordance with Cap. 132. For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation (Cap. 132X), a Food Factory Licence should be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. The application for food business licences under Cap.132, if acceptable by FEHD, will be referred to relevant government departments for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements;
 - (iii) when choosing a premises for food business licences, the applicant must ensure that the operation of food business at the subject premises is in compliance with the requirements imposed under the legislation administered by FEHD, other government departments and the relevant authorities. No part of a food premises shall be located in, under or over any structures built without the approval and consent of the BA. The applicant should satisfy

FEHD that their premises applying for a food business licence be (i) free of unauthorized building works; (ii) in compliance with government lease conditions; and (iii) in compliance with statutory plan restrictions, otherwise FEHD will not process the application for a licence further;

- (iv) whenever restaurant licensees wish to include an OSA into their licensed premises, they are required to submit application to FEHD by filling in the application form together with four copies of proposed layout cum OSA plan and two copies of 1:1000 location map and photo(s) showing the shop front/external wall facing the OSA for approval. If the application of OSA is acceptable for further processing, FEHD will refer it to the relevant departments including such as BD, TD, Fire Services Department, Planning Department, Home Affairs Department, LandsD for clearance. A Letter of Requirements on the captioned would be issued if no objection was raised by FEHD concerned and the OSA licence will be issued upon full compliance of all the requirements;
- (v) from the restaurant licensing point of view, no shelters other than movable sunshades and the like should be allowed in the OSA. Prior approval and consent must be obtained from the BA under the BO (Cap. 123) for the construction of awnings or other supporting structures. The main licensing criteria for OSA in respect of Hygiene Requirements are as following:
 - (1) an OSA should normally be annexed to restaurant premises, i.e. food and beverages need not be conveyed through an intervening public thoroughfare;
 - (2) additional food preparation space and scullery area equivalent to 1/10 of the OSA area should be provided inside the roofed-over restaurant premises (only applicable to OSA area exceeding 50% of existing area of seating accommodation inside the roofed-over premises). If OSA area does not exceed 50% of the existing area of roofed-over seating accommodation, the relaxation on this additional food room licensing requirement may be considered, but subject to the FEHD's discretion;
 - (3) adequate sanitary and ablution facilities should be provided within the roofed-over area of the premises for use by the customers; and
 - (4) area in a backyard/open yard where there are no waste/soil pipes or manholes prejudicing the hygienic operation of the OSA will also be considered;
- (vi) the operation of the eating place must not cause any environmental nuisance to the surrounding. The refuse generated by the applied eating place are regarded as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity; and
- (vii) proper licence issued by FEHD is required if related place of entertainment is involved. Any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within the Places of Public Entertainment Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement, a Place of Public Entertainment Licence (or Temporary Place of Public Entertainment

Licence) should be obtained from FEHD whatever the general public is admitted with or without payment.

