

RNTPC Paper No. A/YL-MP/290
For Consideration by
the Rural and New Town
Planning Committee
on 20.3.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/290

<u>Applicant</u>	:	Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 2972 (Part) in D.D. 104, Mai Po, Yuen Long
<u>Site Area</u>	:	About 144m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<u>Zoning</u>	:	“Recreation” (“REC”)
<u>Application</u>	:	Proposed Temporary Shop and Services (Electronic Goods Showroom) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (electronic goods showroom) for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Any filling of land necessary to effect a change of use to any of those specified in Columns 1 and 2 of the Notes or the uses or developments always permitted under the covering Notes requires planning permission from the Board. The Site is currently vacant and covered by wild grass.
- 1.2 The Site is the subject of an application (No. A/YL-MP/279) for proposed temporary shop and services (electronic goods showroom) submitted by the same applicant, which was approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 31.5.2019 for a period of 3 years (**Plan A-1**). The current application is for the same use but with proposed filling of land.

- 1.3 According to the applicant, the proposed showroom is for display of small household appliances for customers' information before purchasing them online. The Site is at an existing level of 3.9mPD to 4.0mPD. Due to the level difference, filling of not more than 0.2m in depth would be required to raise the level of the Site to 4.1mPD same as the level of the adjacent area. As shown on **Plan A-2**, the Site is accessible from the northeast of the Site via a local track leading from Castle Peak Road – Tam Mi. As compared with the last application, there is no change in development parameters and operation details in the current application, which are summarized as follows:

Site Area (about)	144m ²
Total Floor Area (about)	144m ²
Structure	1 single-storey structure covering the whole Site (about 3.5m in height)
Operation Hours	9:00 a.m. to 9:00 p.m. from Mondays to Sundays (including public holidays)
No. of Staff	3
Estimated Capacity (daily)	Not more than 10-15 customers

- 1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 17.12.2019 (Appendix I)
- (b) Further information (FI) received on 16.1.2020 (Appendix Ia) providing justifications for the proposed filling of land
(*exempted from publication*)

- 1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.2.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Appendix I of the application form at **Appendix I** and FI at **Appendix Ia**. They can be summarized as follows:

- (a) The Site is the subject of a previous planning approval (application No. A/YL-MP/279) for proposed temporary shop and services (electronic goods showroom) for a period of 3 years. Approval of the current application would not jeopardize the long term planning intention of the "REC" zone or set an undesirable precedent.

- (b) The Site has uneven site level (i.e. northwestern and southeastern parts of the Site at 3.9mPD and 4.0mPD respectively) and is lower in level than the surrounding land. The proposed filling works will align the site level same as the surrounding area at 4.1mPD, which are necessary for accommodating the temporary structure on-site and to facilitate access to the Site (**Drawing A-2**). The applicant will remove all fill materials, reinstate the Site to its original level and convert the Site to lawn/soiled ground upon expiry of the planning permission.
- (c) The electronic goods on display will be small household appliances like toothbrushes and air purifiers. The showroom allows customers to get a feel of the products before purchasing them online. Commodities for display at the Site will be hand-carried to the Site by staff. Orders can be placed but there will be no physical products for direct purchase at the Site. Customers will have to collect their purchases at other locations or opt for delivery service.
- (d) Customers and staff will go to/from the Site by public transportation at Castle Peak Road – Tam Mi or on foot. No parking and loading/unloading facilities will be provided to minimize any adverse traffic impact on the surrounding areas.
- (e) The applicant will comply with the requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the potential impacts on the adjacent area.
- (f) The applicant will take environmental and sewerage measures in accordance with relevant Government requirements and guidelines. Septic tank will be placed within the proposed structure. Relevant licence applications and provision of fire service installations (FSIs) will be submitted and implemented respectively if the application is approved.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the TPB Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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

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; and

- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. **Background**

The Site is not subject to any planning enforcement action.

6. **Previous Application**

6.1 The Site is the subject of a previous application for proposed temporary shop and services (electronic goods showroom) submitted by the same applicant, which was approved by the Committee on 31.5.2019 for a period of 3 years, mainly on grounds that the proposed temporary use would not frustrate the long term planning intention of the “REC” zone, not incompatible with the surrounding land uses and the rural character of the area, and adverse impacts arising from the proposed development were not anticipated.

6.2 Details of the application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

7. **Similar Application**

There is no similar application for temporary shop and services use and/or filling of land within the same “REC” zone.

8. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plan A-4)

8.1 The Site is:

- (a) accessible at its northeast via a local track leading from Castle Peak Road – Tam Mi;
- (b) currently vacant and covered with grass; and
- (c) located within the WBA of the Deep Bay Area.

8.2 The surrounding land uses mainly comprise residential dwellings, storage yard, agricultural land, car park, rehabilitation centre and vacant land. Some storage and car parking uses are unauthorized developments subject to enforcement actions by the Planning Authority:

- (a) to the immediate west and north are unused land;
- (b) to the northeast and east are a car park and cycling track under construction by the Civil Engineering and Development Department respectively; and further east across Castle Peak Road – Tam Mi are unused and vacant land, a restaurant and San Tin Highway;
- (c) to the further south is Yau Pok Road, a nullah and unused land;
- (d) to the further west and northwest are residential dwellings, agricultural land, ponds and unused land; and
- (e) to the further north are residential dwellings of Yau Mei San Tsuen, a rehabilitation centre approved under Application No. A/YL-MP/283 and a plant nursery.

9. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

10.1.1 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) The Site is accessible from Castle Peak Road – Tam Mi through both Government land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given, the lot owner will need to apply to his office for a Short Term Waiver to permit the

structures to be erected or regularize any irregularity on site, if any. Besides, 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 the 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 not approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The Site is connected to the public road network via a section of a local access which is not managed by Transport Department. The land status of the local access road and private lot(s) should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, the following condition should be incorporated:

no vehicle is allowed to access the Site.

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

- (a) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – Tam Mi. Presumably, the relevant departments will provide their comments, if any.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office (CE/RD 2-2, RDO), HyD:

As the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems, he has no comment on the application from railway development point of view.

Environment

10.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) Based on the information provided in the application, the Site will be used for showroom and shop for electronic goods only and the use of heavy vehicles is not expected, he has no adverse comment on the application.
- (b) The applicant is reminded that it is his responsibility to comply with all relevant environmental legislations during construction and operation of the project. The applicant is also advised to follow the “Recommended Pollution Control Clauses for Construction Contracts” to minimize the environmental impacts during the construction stage.

Nature Conservation

10.1.6 Comments from the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) It is noted that the Site is disturbed. According to the application, the proposed development would only involve one 1-storey temporary structure while or tree felling would be involved. The proposed filling of land is relatively small in scale, involving an area of about 144m² and a depth of not more than 0.2m. The applicant has also proposed to reinstate the Site to its original level and convert the Site to lawn/soiled ground, after the planning approval period. In view of the above, he has no adverse comment on the application from nature conservation point of view.
- (b) Should the application be approved, proper reinstatement of the Site upon expiry of the approval period as proposed by the applicant is required. The applicant is also advised to ensure that the existing trees on adjacent GL would not be affected.

Landscape

10.1.7 Comments from the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) The Site, located at Yau Mei San Tsuen and to the west of Castle Peak Road (Tam Mi section), falls within an area zoned “REC” on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6. It is noted that the current application has the same site boundary as compared with Application No. A/YL-MP/279 for proposed temporary shop and services (electronic goods showroom), which was approved with conditions by the Committee on 31.5.2019 valid until 31.5.2022.

- (b) According to the aerial photo taken in 2017, the surrounding area of the Site comprises temporary structures, farmlands, ponds and scattered tree groups. The proposed use is considered not incompatible with the existing landscape setting in proximity.
- (c) According to his site visit conducted on 3.5.2019, the Site was covered with grass and groundcover. No existing tree was found within the Site. As further adverse significant landscape impact arising from the proposed development is not anticipated, he has no objection to the application from the landscape planning perspective.

Drainage

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

He has no objection in principle to the proposed development from public drainage point of view. Should the application be approved, conditions should be stipulated to require the applicant (i) to submit a drainage proposal; and (ii) to implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Building Matters

10.1.9 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person 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 the 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 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 (B(P)R) respectively.

- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Services

10.1.10 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. His advisory comments are at **Appendix IV**.

Others

10.1.11 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

He has no adverse geotechnical comment on the application. It is noted that land filling of not more than 0.2m is proposed.

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

No environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

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

His office has no comment on the application and the local comments shall be submitted to the Board directly, if any.

10.2 The following Government departments have no comment on or no objection to the application:

- (a) Project Manager (West) (PM(W)), CEDD;
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Director of Leisure and Cultural Services (DLCS);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (e) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 24.12.2019, the application was published for public inspection. During the first three weeks of the statutory publication period, 9 public comments were received from San Tin Rural Committee, Designing Hong Kong Limited, a Village Representative of Mai Po Tsuen, three residents of Yau Mei San Tsuen, and three members of the public all objecting to the application. They were concerned that the proposed development was incompatible with surrounding land uses and would cause adverse sewerage, air, water quality, noise, traffic impacts to the surrounding areas, potential flooding risks and nuisance to the adjacent residents; the proposed development was not in line with the planning intentions of the “REC” zone and the TPB PG-No. 12C; setting of undesirable precedent for similar applications; land filling was unacceptable for the “REC” zone which is within a sensitive area; the proposed use would jeopardize future land supply for recreational use (**Appendix III**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (electronic goods showroom) for a period of 3 years and filling of land at the Site zoned “REC”. The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Although the proposed shop and services use is not in line with the planning intention of the “REC” zone, approval of the application on a temporary basis for a period of 3 years would not frustrate the long term planning intention of the “REC” zone as there is no immediate development programme for the Site.
- 12.2 The proposal involves land filling of not more than 0.2m in depth of the entire Site (about 144m²) from the existing level of 3.9mPD/4.0mPD to 4.1mPD with a layer of concrete, as the Site is uneven and land filling works are necessary to align the site level with the surrounding land to accommodate the proposed temporary structure and to facilitate access to the Site. DAFC has no adverse comment as the proposed filling of land is relatively small in scale and the Site will be reinstated and converted to lawn/soiled ground after the planning approval period.
- 12.3 According to the applicant, the proposed showroom could serve the residents nearby. The proposed use is not incompatible with the rural character of the surrounding areas which mainly comprise residential dwellings, storage yard, agricultural land, plant nursery, car park, rehabilitation centre and vacant land (**Plan A-2**).
- 12.4 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no adverse comment on the application from nature conservation point of view as the proposed development will only involve one single-storey temporary structure, and no tree felling would be involved. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective considering that there is no existing tree within the Site and further

adverse significant landscape impact arising from the proposed development is not anticipated.

- 12.5 Relevant Government departments consulted including CE/MN of DSD, H(GEO) of CEDD, DEP and C for T have no adverse comment on or no objection to the application. To mitigate potential environmental impacts on the surrounding area and address technical concerns of the departments, approval conditions restricting the operation hours as proposed by the applicant and on technical requirements are recommended in paragraphs 13.2 (a) to (g) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and the “Recommended Pollution Control Clauses for Construction Contracts”.
- 12.6 The Site is the subject of one previous application (No. A/YL-MP/279) for proposed temporary shop and services (electronic goods showroom) approved by the Committee on 31.5.2019 for a period of 3 years. Approval of the current application is in line with the previous decision of the Committee.
- 12.7 Nine public comments were received during the statutory publication period raising objection to the application mainly on grounds of incompatibility of the proposed use, adverse environmental and traffic impacts, not in line with the planning intentions of the “REC” zone and the TPB PG-No. 12C, and setting of undesirable precedent (**Appendix III**). The planning assessments and departmental comments above are of relevance.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 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 3 years until 20.3.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to access the Site at all times during the planning approval period;
- (c) 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 20.9.2020;

- (d) in relation to (c) above, the implementation of fire service installations proposal 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 20.12.2020;
- (e) the submission of a 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 20.9.2020;
- (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 20.12.2020;
- (g) in relation to (f) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (b) 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;
- (i) if any of the above planning conditions (c), (d), (e) or (f) 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
- (j) upon expiry of the planning permission, the reinstatement of the 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 **Appendix IV**.

13.3 There is no strong reason to reject the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 17.12.2019
Appendix Ia	FI received on 16.1.2020
Appendix II	Previous Application
Appendix III	Public Comments received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Plan showing the Proposed Land Filling Area
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2020**