

Previous s.16 Applications covering the Application Site

The Site is involved in 6 previous applications submitted by different applicants.

1. Application No. A/DPA/YL-NSW/6 (site area of about 3,338m²) for residential with ancillary recreational uses by a different applicant was rejected by the Committee on 21.2.1992 mainly on the proposed development was not in compliance with the planning intention for the area for comprehensive development, the intensity of the proposed development was excessive and incompatible with the surrounding developments, traffic noise problem from Castle Peak Road had not been addressed, and water supply would not be available when the residential development was completed.
2. Application No. A/YL-NSW/1 (site area of about 3,614m² encroaching on the Yuen Long Bypass Floodway (YLBF)-to-be-built at that time) for a proposed Petrol Filling Station (PFS) submitted the same applicant of A/DPA/YL-NSW/6 was rejected by the Committee on 5.8.1994 mainly on grounds of its impact on the future planning of the area zoned "U" and insufficient information to demonstrate that the vehicular access arrangement would not cause disruption or hazard to the through traffic on Castle Peak Road – Yuen Long.
3. The other 4 applications were submitted by another applicant for proposed PFS. Application No. A/YL-NSW/17 for a proposed PFS (site area of about 3,285m² encroaching on the then project area of the YLBF) was approved by the Board on 27.6.1997 taking into account the applicant's undertaking that he would not object to the YLBF upon gazette; would cease operation of the PFS and demolish it for a period of one and a half years or a longer period if required, to make way for the YLBF project and would not demand any compensation; and would design and construct the PFS taking into account the YLBF. The PFS had subsequently been built but it was never put into operation. As the western portion of the application site was resumed for the construction of YLBF in 2002, the PFS was demolished subsequently.
4. Application No. A/YL-NSW/182 for a proposed PFS (on a smaller site of about 1,079.6m² located to the east of the completed YLBF) was approved with conditions by the Committee on 7.11.2008 on a temporary basis for a period of 5 years. On 9.12.2008, the applicant applied for a review of the Board's decision and requested to extend the permission period to 50 years. On 6.3.2009, the Board decided to approve the application on a temporary basis for a period of 10 years given that the site was in close proximity to some sensitive uses including the expanded Pok Oi Hospital and a hotel, the future use of the "U" zone was still subject to review and it would not be appropriate to approve the application for a period of 50 years. The subsequent appeal lodged by the applicant was dismissed on 28.10.2010 by the Appeal Board which agreed that Application No. A/YL-NSW/182 was materially different from the approved scheme in 1997 (Application No. A/YL-NSW/17) in terms of scale, design and development parameters. Also, in light of changing circumstances, in particular, the Pok Oi Hospital located in close proximity had expanded since 1997 and the impact of the proposed PFS on the operation of the hospital and the health of patients would be perpetual if permanent approval was granted. As such, the Board's decision was reasonable and being in line with the planning intention. Subsequently, the planning permission of Application No. A/YL-NSW/182 was revoked on 6.3.2011 due to non-compliance with approval conditions on the submission of tree survey report, landscape/drainage/run-in proposals and provision of 3m-high solid boundary wall.
5. Application No. A/YL-NSW/217 (site area of about 3,234m² including a decked-over area

of YLBF (of 2,205m² GL)) was rejected by the Committee on 23.11.2012 on the grounds that the proposed PFS was located within an area zoned "U" which was being comprehensively reviewed; approval of the application would pose an undue constraint to the future land use in the area; there was no strong planning justification for decking a portion of the YLBF for the proposed PFS use; and the applicant did not submit any technical assessments to demonstrate that the proposed development would not have adverse drainage, ecological, geotechnical, visual and landscape impacts on the surrounding areas.

6. Application No. A/YL-NSW/250 (site area of about 1,170.3m² (including 316m² of GL)) was rejected by the Committee on 28.4.2017 and the Board upon review on 28.12.2018 on the grounds that the proposed PFS was mainly located within an area zoned "U" which was being comprehensively reviewed. Approval of the application would pose an undue constraint to the future land use in the area.

**Similar s.16 Applications within the “Undetermined” Zone
on the Nam Sang Wai OZP**

Approved s.16 Applications

<u>No.</u>	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/YL-NSW/115	Temporary Retail Shop for Wheels and Tyres for a period of 3 years	23.8.2002 Approved by RNTPC	(1), (2), (3)
2.	A/YL-NSW/278	Temporary Shop and Services (Sales of Private Cars) for a period of 3 Years	26.6.2020 Approved by RNTPC	(3), (4), (5), (6), (7), (8)

Approval Conditions

- (1) No vehicle repairing and maintenance service allowed on the site.
- (2) Submission of drainage proposals.
- (3) Implementation of drainage facilities.
- (4) Restrictions on operation hours.
- (5) Only private cars allowed to be parked on the site.
- (6) No vehicle allowed to queue back to or reverse onto/from the site.
- (7) Submission of fire service installations (FSIs) proposals.
- (8) Implementation of FSIs.

Recommended Advisory Clauses

- (a) To note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises a New Grant Lot and 3 Old Schedule Agricultural Lots (OSALs). Lot No. 1327RP in D.D. 115 is held under Tai Po New Grant No. 6825 for "House" and "Orchard" purposes. The OSALs are 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. No permission is given for occupation of GL (about 43.66m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed. The lot(s) owner(s) will need to apply to LandsD for a Short Term Waiver to (i) waive the user restriction as stipulated in the lease conditions, if any, and/or (ii) permit the structures to be erected and/or (iii) regularise any irregularities on site, if any. Given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. The applicant has to exclude the GL portion from the Site or apply to LandsD for a Short Term Tenancy to occupy the GL. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD;
- (b) to note the comments of the Commissioner for Transport (C for T) that the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department (TD). The land status of the local access road 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;
- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the proposed access arrangement of the Site from Castle Peak Road – Yuen Long should be approved by TD. HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – Yuen Long. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (d) to note the comments of the Director of Environmental Protection (DEP) to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP;
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) to adopt good site practices and implement necessary measures to prevent any disturbance or water pollution to the nearby watercourse;
- (f) to note the comments of Director of Fire Services (D of FS) that the applicant shall submit relevant layout plans incorporated with the proposed fire services installations (FSIs) to his Department for approval. The layout plans should be drawn to scale and

depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. If the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;

- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorised building works (UBW) under BO. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO. 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 construed as an acceptance of any existing works or UBW on the Site under BO. 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. 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 B(P)R at building plan submission stage. Any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings and are subject to the control of Part VII of B(P)R. Detailed checking under BO will be carried out at building plan submission stage;
- (h) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that there is no public sewer connection available in the vicinity, the applicant shall seek views and comments from DEP regarding the sewage disposal arrangement of the proposed development;
- (i) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that there is a high pressure underground town gas transmission pipeline (running along Castle Peak Road) which is in the vicinity of the Site. The applicant shall liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of the development. The applicant is required to observe the Electrical and Mechanical Services Department's requirements on the "Avoidance of Damage to Gas Pipes 2nd Edition" for reference. The webpage address is: [https://www.emsd.gov.hk/filemanager/en/content_286/CoP_gas_pipes_2nd_\(Eng\).pdf](https://www.emsd.gov.hk/filemanager/en/content_286/CoP_gas_pipes_2nd_(Eng).pdf) ;
- (j) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that existing water mains will be affected (as shown on Plan A-2 of the Paper). The applicant shall bear the cost of any necessary diversion works affected by the proposed development. In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5 metres from the centerline of the water main shall be provided to WSD. No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes. The Water Authority and his officers

and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorise. The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site; and

- (k) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that no facilities of the Food and Environmental Hygiene Department (FEHD) shall be affected and such work and operation shall not cause any obstruction to the surrounding. 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 and the operation of any business should not cause any obstruction. In accordance with Section 4 of Food Business Regulation (Cap. 132X), the expression "food business" means, any trade or business for the purpose of which any person engages in the handling of food or food is sold by means of a vending machine. If the proposal involves any commercial/trading activities, 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.

