

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/284

- Applicant** : Golden Mong Company represented by Mr. Kwok Chi Man
- Site** : Lot 3250 S.B ss.49 (Part) in D.D. 104 and adjoining Government Land (GL), San Tin, Yuen Long
- Site Area** : About 80 m² (including 50 m² of GL)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
- Zoning** : “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”)
- [Restricted to a maximum plot ratio of 0.4 and a maximum building height of 6 storeys including car park.]
- Application** : Proposed Temporary Shop and Services (Convenience Store) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (convenience store) for a period of 3 years. The Site falls within an area zoned “OU(CDWRA)” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan A-1**). According to the Notes of the OZP for “OU(CDWRA)” zone, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Site is accessible to Fairview Park Boulevard via a local track. The proposed development involves a single-storey container-converted structure with metal cover having a total floor area of about 80m² and building height of not more than 3m. The proposed structure will be set back 2m from the western corner of the Site to avoid affecting the existing fresh water main and electricity pole. The operation hours of the proposed convenience store are between 9:00 a.m. and 6:00 p.m. daily (including public holidays). No parking space or loading/unloading space is provided within the Site. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form and supplementary documents (Appendix I)
received on 17.12.2020
- (b) Further Information (FI) dated 21.1.2021 (Appendix Ia)
(accepted and exempted from the publication and
recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ia**. They can be summarised as follows:

- (a) The proposed convenience store is not incompatible with the planning intention of the “OU(CDWRA)” zone. It would not affect the rural character of the surrounding areas. Its scale is smaller than the approved restaurant to the southwest (Application No. A/YL-NSW/279). The proposed structure is of simple design which allows easy reinstatement of the Site. The proposed development will not cause adverse impact to the surrounding environment and long term development for the Site.
- (b) The proposed development is a traditional store selling snacks and drinks to nearby residents. The applicant has already consulted the locals and there was no objection raised by the locals.
- (c) The traffic impact generated by the proposed development is insignificant. There will be only 1-2 store keepers working at the Site. The visitors will access the Site on foot or by bike. Replenishment of goods will be carried out once a fortnight and avoiding rush hours. Goods will be loaded/unloaded in the vacant area nearby and transferred to the Site by a trolley. The negligible increase in traffic would not aggravate the traffic condition of nearby road networks.
- (d) The proposed development would not generate adverse environmental and ecological impacts. The proposed development would not involve tree removal, pond filling, drilling, hazardous materials, etc. No neon-light advertising sign, night lighting system and speakers will be installed. Waste would be collected and cleared to ensure the hygiene. No noise and light nuisance will be resulted.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by sending registered post to the current land owner. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the “Owner’s Consent/Notification” Requirements are not applicable.

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 summarised 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 a subject of any active enforcement case. If there is sufficient evidence to prove unauthorised development (UD) under the Town Planning Ordinance, enforcement action would be instigated against it.

6. Previous Application

There is no previous application at the Site.

7. Similar Application

There is no similar application for shop and services use within the subject "OU(CDWRA)" zone on the OZP.

8. The Site and its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently paved and occupied by a vacant container-converted structure;
- (b) located near Man Yuen Chuen to the south of Fairview Park Boulevard;
- (c) accessible by a local track branching off Fairview Park Boulevard (**Plans A-2 and A-3**); and
- (d) within the WBA under the TPB PG-No. 12C.

8.2 The surrounding areas are intermixed with residential dwellings, school, unused land, office, shops, restaurant, car parks and open storage yards. Such open storage

yards and car parks are suspected UD's subject to enforcement action by the Planning Authority:

- (a) to the northeast are unused land and two shops approved under Application No. A/YL-MP/270;
- (b) to its east are Yau Pok Road and a drainage channel. Further east across the drainage channel are the residential dwellings in Man Yuen Chuen;
- (c) to the northwest across a local track are a plant nursery, vehicle park and a temporary office approved under Application No. A/YL-MP/295. Further west are a school and Fairview Park; and
- (d) to the southwest are some residential dwellings, vehicles parking area, a restaurant approved under Application No. A/YL-NSW/279 and some open storage yards.

9. Planning Intention

The "OU(CDWRA)" zone is intended to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. Any new building should be located farthest away from Deep Bay. For application for uses developed individually and not forming part of a comprehensive development scheme, the requirement of the provision of wetland restoration proposal could be exempted.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises GL and an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) No permission is given for occupation of GL of about 50m² in area (subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) Should planning approval be given to the application, the registered lot owner will need to immediately apply to LandsD to permit the structures to be erected or regularise any irregularities on the Site, if

any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. 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 rent or fee, as may be imposed by 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 road which is not managed by 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.
- (b) As there is no information about the vehicular access at the private lot(s) to the Site, the applicant should arrange by themselves if necessary, and should seek the relevant land owner(s)' consent on the right of using the vehicular access.
- (c) 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) The proposed access arrangement of the Site from Fairview Park Boulevard should be approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Fairview Park Boulevard.
- (c) Adequate drainage measures should be provided to prevent surface water flowing from the Site to the nearby public roads and drains.

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

He has no comment from railway development viewpoint as the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems.

Environment

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

- (a) The applicant is advised 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.
- (b) No environmental complaint pertaining to the Site has been received over the past 3 years.

Nature Conservation

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

He has no comment from nature conservation point of view as the proposed use under application is of small scale and temporary in nature, and the Site is paved and disturbed.

Landscape

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

- (a) He has no objection from landscape planning perspective.
- (b) Based on the aerial photo taken on 26.2.2020, the Site is situated in an area of rural fringe landscape character comprising low-rise residential areas and scattered tree groups. The proposed development is not incompatible with the landscape character of the area. The Site is paved and no existing tree is found within the Site. Significant adverse impact on landscape resources within the Site is not anticipated.
- (c) In view that the Site is not abutting prominent public frontage and significant adverse landscape and visual impact due to the proposed development is not anticipated, landscape condition is therefore not recommended should the Board approve the application.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to D of FS for approval. The applicant should also be advised on the

following points:

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

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 fillings, 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 the Buildings Ordinance (BO). An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (b) For UBW erected on leased land, enforcement action may be taken by Buildings Department 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 BO.
- (c) His detailed comments are at **Appendix III**.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, the following conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal; and (ii) to implement the drainage proposal and maintain the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board.

Water Supply

10.1.11 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The applicant shall bear the cost of any necessary diversion works affected by the proposed development.
- (c) 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.
- (d) 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.

Food and Environmental Hygiene

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

- (a) He has no objection on the application.
- (b) Proper licence / permit issued by Food and Environmental Hygiene Department (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.
- (c) His detailed comments are at **Appendix III**.

Electricity Safety

10.1.13 Comments of the Director of Electrical and Mechanical Services (DEMS):

He has no adverse comment on the application. His detailed comments

are at **Appendix III**.

District Officer's Comments

10.1.14 Comments of the District Officer (Yuen Long) (DO/YL):

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

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

- (a) Commissioner of Police;
- (b) Project Manager (West), Civil Engineering and Development Department (CEDD); and
- (c) Head of the Geotechnical Engineering Office, CEDD.

11. Public Comments Received During Statutory Publication Period

On 29.12.2020, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 19.1.2021, 2 public comments were received from individuals objecting to the application on the grounds that there is no history of approval, the Site should be taken back for wetland restoration; and that the proposed development would pollute the surrounding areas, cause fire safety problem, and affect the safety and living quality of the villagers (**Appendix II**).

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary shop and services (convenience store) for a period of 3 years at the Site which is at the fringe of the "OU(CDWRA)" zone. The planning intention of the "OU(CDWRA)" zone is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. While the proposed temporary convenience store is not entirely in line with the planning intention of the "OU(CDWRA)" zone, it could provide services to local residents and workers in the area. It is also considered not incompatible with the surrounding land uses including the residential developments at Man Yuen Chuen and Fairview Park as well as the temporary shops, restaurant and office approved in its vicinity (**Plan A-2**). There is also no known long-term development for the Site.

12.2 According to TPB PG-No. 12C, the Site falls within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have off-site disturbance impact on the ecological value of fish ponds. The Site is located at a considerable distance from the fish ponds and wetlands in the Deep Bay area and separated by the major residential developments at Fairview Park. The applied use is only temporary in nature and the requirement of EcoIA submission can be exempted. DAFC has no

comment on the application as the Site is paved and disturbed.

- 12.3 In view of the nature and small-scale of the convenience store, it would unlikely cause significant adverse traffic, environmental, drainage and landscape impacts on the area. There are no adverse comments from the concerned departments including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD. Approval conditions on traffic, drainage and fire safety requirements are recommended in paragraphs 13.2 (b) to (g) below as per the advice of these departments. To mitigate the potential environmental impacts of the proposed development on the surrounding areas, approval condition restricting the operation hours is recommended in paragraph 13.2 (a) below. 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” if the application is approved.
- 12.4 2 opposing public comments were received during the statutory public inspection period of the application as detailed in paragraph 11. The planning assessment and departmental comments above are relevant.

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 above, 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 5.2.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 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 any time during the planning approval period;
- (c) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.8.2021;
- (d) in relation to (c) above, the implementation of 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 5.11.2021;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 5.8.2021;

- (g) in relation to (f) 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 5.11.2021;
- (h) if any of the above planning conditions (a), (b) or (e) 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; and
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The proposed development is not in line with the planning intention of the "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" zone which is intended to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong justification for a departure from the planning intention, even on a temporary basis.

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 and supplementary documents received on 17.12.2020
Appendix Ia	FI received on 21.1.2021
Appendix II	Public Comments

Appendix III
Drawing A-1
Plan A-1
Plan A-2
Plan A-3
Plans A-4a and 4b

Recommended Advisory Clauses
Layout Plan
Location Plan
Site Plan
Aerial Photo
Site Photos

PLANNING DEPARTMENT
FEBRUARY 2021