

FURTHER CONSIDERATION OF APPLICATION NO. A/YL-ST/503
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

Proposed Commercial Development (Eating Place, Place of Entertainment, Shop and Services) with Minor Relaxation of Height Restriction and Excavation of Land

1. Background

- 1.1 On 23.2.2017, the applicant, Topcycle Development Limited represented by Masterplan Limited submitted the current application for a proposed commercial development (eating place, place of entertainment, shop and services) with minor relaxation of height restriction and excavation of land at the application site (the Site) (**Plans FA-1 to FA-3**). The Site falls within an area zoned “Other Specified Uses” annotated “Service Stations” (“OU(SS)”) on the approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8. According to the Notes for the “OU(SS)” zone, ‘Eating Place’, ‘Place of Entertainment’, ‘Shop and Services’, minor relaxation of building height, and excavation of land require planning permission from the Town Planning Board (the Board). The proposed commercial development comprises two 4-storey elongated building blocks over 3-level basements (building height (BH) of 36.7m/26.55mPD) with a total non-domestic GFA of 86,477m² (plot ratio (PR) of about 2.178) targeted for local and cross-boundary visitors.
- 1.2 The Site falls within Wetland Buffer Area (WBA) of the Deep Bay area, and at present, construction works for temporary cross-boundary shopping centre under approved planning application No. A/YL-ST/476 is in progress and near completion. Application No. A/YL-ST/476 submitted by the same applicant for temporary cross-boundary shopping centre with ancillary car park, eating place, shop and services (fast food shop), office and storage of consumer goods (with a GFA of 12,034.103m², PR of 0.3, and BH of 1 storey and 5.8m to 12m) was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 18.9.2015 for a period of 3 years until 18.9.2018. According to the applicant, the temporary cross-boundary shopping centre is targeted to start operation in early/mid-February 2018. A comparison of key development parameters and layout plans of Application Nos. A/YL-ST/476 and 503 are at **Appendix F-VII** and **Drawing FA-1**.
- 1.3 On 22.9.2017, the Committee considered the application (copy of the RNTPC paper at **Appendix F-I**) and considered that the current proposal was generally in line with the planning intention for the “OU(SS)” zone and noted that concerned departments have no objection to the application. Technical feasibility of the

proposed development has been confirmed by relevant technical assessments submitted. However, Members had concerns on:

- (a) the interface arrangement on the implementation of the temporary and permanent developments at the Site; and
- (b) the mode of operation of the proposed commercial development to justify the proposed scale of development.

1.4 In view that there is a planning application for a proposed temporary cross-boundary shopping centre (Application No. A/YL-ST/498) adjacent to the Site, Members were concerned that approval of the current application may set a precedent for mega commercial development in the area generating undesirable cumulative impacts to the area. After deliberation, the Committee decided to defer making a decision on the application pending further information from the applicant to clarify the above concerns.

1.5 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. A/YL-ST/503A (Appendix F-I)
- (b) Extract of Minutes of 588th Meeting of the Committee held on 22.9.2017 (Appendix F-II)
- (c) Letter dated 13.10.2017 from the Secretary of the Board to the applicant (Appendix F-III)
- (d) Applicant's letter dated 26.10.2017 providing further information (FI) (Appendix F-IV)
(accepted but not exempted from publication and recounting requirements)
- (e) Applicant's letter dated 7.12.2017 providing FI (Appendix F-V)
(accepted but not exempted from publication and recounting requirements)
- (f) Applicant's letter dated 4.1.2018 providing FI (Appendix F-VI)
(accepted and exempted from publication and recounting requirements)

1.6 In responses to Members' concerns, the applicant on 26.10.2017, 7.12.2017 and 4.1.2018 submitted FIs on the interface arrangement of the two applications (Application Nos. A/YL-ST/476 and A/YL-ST/503), the mode of operation of the proposed development and the cumulative traffic and ecological impacts for further consideration by the Board (**Appendices F-IV to F-VI**).

2. Further Information submitted by the Applicant

Strategic Location for Commercial Development

2.1 According to the applicant's planning statement, the Site is situated in an area in San Tin adjacent to San Sham Road leading to the Lok Ma Chau Control Point

and is close to the San Tin Public Transport Interchange, San Tin Interchange and San Tin Highway. The applicant states that the proposed commercial development will serve as a regional shopping centre which primarily caters for the local people. It also helps alleviate the pressure from cross-boundary tourists on Hong Kong shopping by enabling them to purchase at the centre.

Mode of Operation of the Permanent Commercial Development

2.2 According to the applicant, the Site would be developed as a regional shopping centre with a wide range of retail and entertainment facilities serving a regional function for the Northern New Territories including the Yuen Long and North Districts. The proposed development will provide a new shopping experience to visitors with “retail in the park” approach adopted integrating architectural and landscape design for local and cross-boundary visitors.

2.3 The applicant states that the mode of operation of the two applications (No. A/YL-ST/476 and the current application) is different as they are to serve different functions and markets and their scale and content are different and not comparable. The proposed commercial development under the current application is a permanent development targeting for local customers with some cross-boundary visitors, while the proposed temporary cross-boundary shopping centre (Application No. A/YL-ST/476) with temporary structures is a ‘community project’ run by a non-profit foundation with local employment opportunities subject to a 3-years’ permission.

Interface of the Temporary and Permanent Developments at the Site

2.4 The temporary cross-boundary shopping centre (under Application No. A/YL-ST/476) is a quick response to address the prevailing need for new shopping areas outside existing urban shopping centre, to cope with additional tourists via the Individual Visit Scheme and to reduce the cross-boundary activities currently concentrating in Fanling and Sheung Shui areas. The applicant advises that the implementation of the temporary cross-boundary shopping centre was delayed due to the required time for satisfactory completion of various technical assessments and implementation works required by concerned departments. The required works are expected to be completed soon and the temporary occupation permit has already been granted. It is targeted for operation in early/mid-February 2018.

2.5 If the Board approve the current application for permanent commercial development, further works will be required for revising various technical assessments (including the Landscape Master Plan, Tree Preservation Proposal, Ecological Impact Assessment (EcoIA), Sewerage Impact Assessment, Environmental Assessment, Drainage Impact Assessment and Public Transport Proposal etc.), land transaction and building plan submission etc. Based on experience, it would require about 2 years for completion. To fit in the time gap before the development of the permanent commercial development and to optimise the use of land resources, temporary use at the Site could be considered, i.e. renewal of planning approval for the temporary cross-boundary shopping centre or other beneficial temporary uses if the temporary shopping centre is not well received. Should the Board approve the renewal application of the temporary shopping centre, implementation of the proposed permanent

commercial development will likely be adjusted to allow more time for operation of the temporary shopping centre, e.g. at least a minimum of full 2-year operation.

The Scale of Development and Its Cumulative Impacts

- 2.6 The Site has been used for rural workshop and open storage uses with various temporary planning permissions in the past. The applicant stated that the proposed development of 86,477m² and PR of about 2.178 is in compliance with the scale and intensity (pro-rated based on the maximum 222,000m² GFA for the “OU(SS)” zone) permitted under the OZP. The scale of development is also devised from commercial analysis and market research and it is considered appropriate for the various catchment area that it is to serve. The proposed development is sensitively designed and set back from the surrounding areas with a unique stepped design form. CTP/UD&L, PlanD has no objection to the scale, intensity and form of the development.
- 2.7 On cumulative traffic impact, the applicant advised that the Traffic Impact Assessment (TIA) including the sensitivity tests have assessed the cumulative traffic impacts taking into account the approved/planned developments in the surrounding area including the similar Application No. A/YL-ST/498 for proposed temporary cross-boundary shopping centre which was withdrawn by the applicant on 11.1.2018, and a worst scenario of 50:50 split for local and cross-boundary visitors has been included in the TIA. The assessment was accepted by Transport Department (TD).
- 2.8 For cumulative ecological impact, it should be noted that the Site was originally a brownfield site and does not fall within the Wetland Conservation Area. The concerns on potential spill over effect in the Deep Bay area would be insignificant and be mitigated by minimising human intrusion into the nearby wetland. A revised EcoIA would be submitted to Director of Agriculture, Fisheries and Conservation’s satisfaction under approval condition, should the application be approved.

3. Comments from Relevant Government Departments

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

- (a) He has no comment on the FI.
- (b) As already stated in his previous comments considered by the Board on 22.9.2017, should the application be approved, the following approval conditions should be imposed:
- (i) the provision of a comprehensive public transport service proposal for both cross-boundary and local visitors.
- (ii) the implementation of road improvement works and provision of pedestrian footbridge linking the San Tin Public Transport Interchange with the development.

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

- (a) His previous comments on the application remain valid and are recapped below.
- (b) It is noted that the application is largely similar to the proposed scheme under planning application No. A/YL-ST/477 (submitted and withdrawn by the current applicant). The proposed nature and scale of development remain incompatible with the surrounding village type or low-rise residential development in rural area. Although the Site is an existing degraded area in WBA which is a target area to provide incentive to remove open storage use, it is questionable whether the proposed development (i.e. commercial development of a shopping centre with plot ratio of 2.178 and maximum building height of 26.55mPD which would generate large amount of traffic and human flow in the Site and its surrounding area) could be regarded as “an appropriate level of residential/recreational development” for fulfilling the planning intention of WBA as stipulated in the TPB Guideline PG-No. 12C. He is concerned that approving the application may encourage other similar developments in the WBA which would result in cumulative negative impacts on the ecological integrity of wetland ecosystem in Deep Bay area in future. He trusts the Board would holistically consider whether there would be any implication on the overall planning of land uses and development intensity in the Inner Deep Bay area in future if the application is approved.
- (c) To address his previous comments, the applicant confirmed that no percussive piling will be carried out during winter season from November to March. The applicant also argued that the section of San Tin Tsuen Road to the west of the Site beyond the widened section would discourage driving through this section as it is a narrow 3.5m wide rural road (**Drawing A-1 of Appendix F-I**), hence “adverse impact to fauna utilizing the wetland habitats in Wetland Conservation Area (WCA)/WBA due to increase of traffic is not anticipated”. To address the concerns on traffic and human disturbance, the applicant also proposed “mandatory right turn” for vehicles leaving the northern access point (at San Tin Tsuen Road) to turn right only to join the Castle Peak Road, and stated in his FI (**Appendix If of Appendix F-I**) that the measures introduced in the design of the project together with the existing situation on site would minimize the possible spillover. Nevertheless, the practicability of the “mandatory right turn” proposal is uncertain and subject to advice from TD and spillover of traffic and human flow to San Tin Tsuen Road and the fishpond/wetland habitats in WCA is still anticipated. He is worried about the operational phase disturbance impact on the fishpond/wetland habitats in WCA (In this regard, TD stated that he agreed with the applicant’s proposal that cars leaving the Site at the northern access point at San Tin Tsuen Road will have to make mandatory right turn into San Tin Tsuen Road leading to Castle Peak Road.).
- (d) In view of the above, the EcoIA is considered inadequate to demonstrate that the proposed development would not have adverse ecological impacts on the surrounding area at this stage and he has reservation on the application from nature conservation point of view. Should the application be approved by the Board, he suggests imposing relevant condition for submission of a revised

EcoIA and implementation of the recommended mitigation measures in the EcoIA as appropriate.

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

The temporary occupation permit for the temporary cross-boundary shopping centre (under Application No. S/YL-ST/476) has been issued in November 2017.

3.4 Comments of C of C&E:

- (a) He has no objection to the application. He considers that the mitigating measures of cumulative traffic impact should be effectively implemented. The impact caused to the traffic, environment and cross-boundary movement of customers should be assessed by Government departments in a holistic manner.
- (b) Should the application be approved, an approval condition requiring the provision of a comprehensive public transport service proposal for both cross-boundary and local visitors to the satisfaction of C for T should be imposed to address his concerns.

3.5 Comments of Director of Immigration (D of Imm):

- (a) He has no comment on the FIs submitted by the applicant.
- (b) His previous concerns on the possible impact on the clearance operation of the two nearby control points, namely Lok Ma Chau Control Point and Lok Ma Chau Spur Line Control Point remain valid. Hence, it will be necessary for the applicant to review the proposed mitigation measures (e.g. coupon system for transport arrangement to minimise cross-boundary visitors coming before 1300 hour) after the commissioning of the proposed commercial development to ensure that the normal clearance operation of the two control points would not be adversely affected and necessary improvement measures should be implemented whenever required. In this regard, the applicant should be advised that law enforcement agencies and concerned Government departments should be consulted in due course.
- (c) Should the application be approved, an approval condition requiring the provision of a comprehensive public transport service proposal for both cross-boundary and local visitors to the satisfaction of C for T should be imposed to address his concerns.

3.6 Comments of District Officer(Yuen Long) (DO(YL)):

- (a) His office has no comment on the application and the local comments shall be submitted to the Board direct, if any.
- (b) He has relayed an objection letter from a Village Representative (VR) of Yan Sau Wai mainly on the grounds that there is lack of new transport facilities and

services, and assessment on environmental and public order in the proposal (**Appendix F-VIII**).

- 3.7 The other Government departments (as detailed in paragraph 10 of the RNTPC paper at **Appendix F-I**) have no comment on the FI and/or their previous comments on the application are still valid.

4. Public Comments Received During Statutory Publication Period

On 7.11.2017 and 15.12.2017, the FIs (**Appendices F-IV and F-V**) were published for public comments for 3 weeks respectively. During the statutory public inspection periods, which ended on 28.11.2017 and 5.1.2018 respectively, six public comments were received from San Tin Rural Committee, the VR of Yan Sau Wai and two private individuals. They object to the application mainly on grounds that the traffic in the surrounding areas is congested and the additional traffic generated by the proposed development would worsen the situation. There is lack of new transport facilities and services, and assessment on environment and public order in the proposal. The proposed development would commercialize the tranquil village environment (**Appendix F-IX**). Their views are similar to the objecting public comments received during the previous public inspection periods as detailed in paragraph 11.2 of the RNTPC paper at **Appendix F-I**.

5. Planning Considerations and Assessments

- 5.1 The planning considerations and assessments on the application as set out in paragraph 12 of the RNTPC Paper No. A/YL-ST/503A are still valid (**Appendix F-I**). At the RNTPC meeting on 22.9.2017, the Committee considered that the current proposal was generally in line with the planning intention for the "OU(SS)" zone and noted that concerned departments have no objection to the application. Technical feasibility of the proposed development has been confirmed by relevant technical assessments submitted. However, Members had concerns on the interface arrangement on the implementation of the temporary and permanent developments at the Site and the mode of operation of the proposed commercial development to justify the proposed scale of development. Members were also concerned that approval of the current application may set a precedent for mega commercial development in the area generating undesirable cumulative impacts to the area.

Mode of Operation of the Permanent Commercial Development

- 5.2 To address the Committee's concerns, the applicant has submitted FIs with information on the interface arrangement of the approved temporary cross-boundary shopping centre and the currently proposed permanent commercial development (under Application Nos. A/YL-ST/476 and A/YL-ST/503), the mode of operation of the proposed development and on cumulative traffic and ecological impacts. The applicant states that the proposed shopping centre with a wide range of retail and entertainment facilities will serve a regional function for the Northern New Territories. Regarding the mode of operation, the applicant has clarified that the current application is a proposed

permanent commercial development targeting mainly for local customers and cross-boundary visitors, while the proposed temporary cross-boundary shopping centre approved under Application No. A/YL-ST/476 is a ‘community project’ on temporary basis.

Interface of the Temporary and Permanent Developments at the Site

- 5.3 Regarding the interface of the temporary and permanent developments at the Site, according to BD, the temporary occupation permit for the temporary cross-boundary shopping centre has been issued in November 2017. According to the applicant, the temporary cross-boundary shopping centre is targeted to start operation in early/mid-February 2018. The applicant states that if the temporary cross-boundary shopping centre is well received by the community, they will apply to the Board for renewal of the application for continued operation of the temporary shopping centre for a at least a minimum of full 2-year period, as the same time is required to revising various technical assessments, and complete land transaction and building plan submission for the proposed permanent commercial development should it be approved by the Board. Alternatively, if the temporary shopping centre is not well received, other beneficial temporary uses which can make best use of the Site on an interim basis could also be considered, subject to approval by the Board.

The Scale of Development and Its Cumulative Impacts

- 5.4 The scale of development of the permanent development is in line with the development restrictions of the “OU(SS)” zone. Regarding the cumulative impact, the applicant has submitted a TIA under the application which assessed the possible cumulative traffic impact taking into account the approved/planned developments in the surrounding area. The assessment was accepted by C for T and he has no objection to the application. C of C&E and D of Imm are concerned about the cumulative traffic impact and possible impact arising from the proposed development on the Lok Ma Chau Control Point and Lok Ma Chau Spur Line Control Point and consider that an approval condition requiring the provision of a comprehensive public transport service proposal for both cross-boundary and local visitors to the satisfaction of C for T should be imposed should the application be approved. Other concerned departments including DAFC have no further comments and their previous comments on the application (paragraph 10 of the RNTPC paper at **Appendix F-I**) are still valid.
- 5.5 Regarding the public comments raising concerns on the application, the planning assessments and consideration as set out in paragraph 12 of the RNTPC paper at **Appendix F-I** and in paragraph 5.4 above are relevant.

6. Planning Department’s Views

- 6.1 The Planning Department maintains its view of having no objection to the application for the same considerations as detailed in paragraph 12 of the RNTPC paper at **Appendix F-I** and in paragraph 5 above.
- 6.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 26.1.2022, and after the said date, the permission

shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses as set out in paragraph 13.2 of the RNTPC Paper No. A/YL-ST/503A are recapitulated below:

Approval Conditions

- (a) the submission and implementation of a revised layout plan to take into account conditions (b) to (j) below to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of a revised Landscape Master Plan including tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (c) the submission of a revised Ecological Impact Assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (d) the submission of a revised Sewerage Impact Assessment and implementation of sewage treatment and disposal measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (e) the submission of a revised Environmental Assessment and implementation of mitigation measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (f) the submission of a revised Drainage Impact Assessment and the provision and maintenance of the drainage mitigation measures identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (g) the provision of a comprehensive public transport service proposal for both cross-boundary and local visitors to the satisfaction of Commissioner for Transport or of the Town Planning Board;
- (h) the implementation of road improvement works and provision of the pedestrian footbridge linking the San Tin Public Transport Interchange with the development, as proposed by the applicant, to the satisfaction of Commissioner for Transport or of the Town Planning Board;
- (i) the design and provision of vehicular access, parking facilities, loading/unloading spaces and lay-bys for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and
- (j) the design and provision of emergency vehicular access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix F-X**.

- 6.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
- (a) the proposed development is not in line with the Town Planning Board Guidelines for "Application for Developments within Deep Bay Area" (TPB PG-No. 12C) in that the applicant fails to demonstrate that the proposed development would not have negative off-site disturbance impact on the ecological value of fish ponds and wetland in the Deep Bay area; and
 - (b) approving the application would set an undesirable precedent that would encourage other similar developments in the WBA in future and result in cumulative adverse ecological impacts on the surrounding areas.

7. Decision Sought

- 7.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 7.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 7.3 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.

8. Attachments

Appendix F-I	RNTPC Paper No. A/YL-ST/503A
Appendix F-II	Extract of Minutes of 588th Meeting of the Committee held on 22.9.2017
Appendix F-III	Letter dated 13.10.2017 from the Secretary of the Board to the applicant
Appendix F-IV	Applicant's letter dated 26.10.2017 providing further information
Appendix F-V	Applicant's letter dated 7.12.2017 providing FI
Appendix F-VI	Applicant's letter dated 4.1.2018 providing FI
Appendix F-VII	Comparison of key development parameters of Application Nos. A/YL-ST/476 and 503
Appendix F-VIII	Local comments relayed from DO(YL)

Appendix F-IX	Public comments received during statutory publication period
Appendix F-X	Recommended advisory clauses
Drawing FA-1	Comparison of layout plans of Application Nos. A/YL-ST/476 and 503
Plan FA-1a	Location Plan with Similar Application
Plan FA-1b	Previous Application Plan
Plan FA-2	Site Plan
Plan FA-3	Aerial Photo

**PLANNING DEPARTMENT
JANUARY 2018**