

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/614

- Applicant** : Mr. TANG Chi-hok represented by Goldrich Planners and Surveyors Ltd.
- Site** : Lot 56 RP (Part) in D.D. 126, Ping Shan, Yuen Long, New Territories
- Site Area** : About 741m²
- Lease** : Block Government Lease (Demised for Agricultural Use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Shop and Services (Convenience Store and Retail Shop) with Ancillary Office and Toilet for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (convenience store and retail shop) with ancillary office and toilet for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within an area zoned “Recreation” (“REC”) on the approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18. According to the Notes of the OZP for the “REC” zone, ‘Shop and Services’ is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is covered with soil and scattered grass and is currently vacant (**Plans A-2 and A-4**).
- 1.2 The Site is related to four previous applications (No. A/DPA/YL-PS/50, A/YL-PS/42, 244 and 523) in a much larger extent for temporary container vehicle park, filling of pond for agricultural use, open storage and public vehicle park use respectively which were all rejected by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1996 and 2016. Details of the previous applications are summarised at paragraph 6 below and at **Appendix II**.
- 1.3 The Site is accessible via a local track leading to Tin Wah Road (**Drawing A-1 and Plan A-2**). As shown on **Drawing A-2**, the applicant proposes five temporary structures with total floor area of 495m², including two open sheds of 6m in height, two converted containers of 5.2m in height for convenience store,

retail shop and ancillary office uses and a temporary structure of 2.6m in height for toilet use. The applicant proposes to sell refreshment drinks and snacks at the convenience store and frozen meat in packages at the retail shop. The operation hours are from 11 a.m. to 11 p.m. daily (including public holidays). The applicant proposes one light goods vehicle parking space at the Site. No visitor parking will be provided at the Site. The vehicular access plan, layout plan, landscape proposal and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.

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

- (a) Application Form and attachments received on **(Appendix I)** 12.8.2020
- (b) Further Information (FI) received on 14.9.2020 **(Appendix Ia)** clarifying the items sold at the convenience store and retail shop (*exempted from publication requirements*)
- (c) FI received on 24.9.2020 clarifying the operation of the **(Appendix Ib)** retail shop (*exempted from publication requirements*)

2. **Justifications from the Applicant**

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

- (a) The proposed development provides convenience to hikers or people travelling to the area, and the barbecue activities¹ in the vicinity.
- (b) The Site is connected to a local track. The proposed use will not affect the buffer function of the Wetland Buffer Area (WBA).
- (c) The proposed use would not generate adverse visual, landscape and traffic impacts on the surrounding areas.

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 Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notice to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

¹ ‘Barbecue spot’ is a Column 1 use always permitted in the subject “REC” zone.

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) are relevant. The Site falls within the Wetland Buffer Area (WBA) of TPB PG-No. 12C. 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.
- (b) Within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment (EcoIA) would also 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 Applications**

- 6.1 The Site is related to four previous applications (No. A/DPA/YL-PS/50, A/YL-PS/42, 244 and 523) for various uses. All of them were rejected by the Board on review or the Committee. Details of the previous applications are at **Appendix II**. The application sites are all located within the WBA and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/DPA/YL-PS/50 (covering the Site and the land to its south and north with a site area of about 4 ha) was for proposed temporary container vehicle park for 3 years in the then “Unspecified” zone. It was rejected by the Board on review in 1996 on the grounds of not in line with the planning intention for the area to encourage agricultural and recreational uses; not compatible with the residential developments in Tin Shui Wai and the rural environment to its east; adverse impacts on the ecology of the area to sustain the nearby Mai Po Nature Reserve; potential traffic impact on the surrounding area; and road improvement works proposed by the applicant triggering off further developments in the area which was highly undesirable in terms of traffic growth control and transport planning.
- 6.3 Application No. A/YL-PS/42 (covering the Site and the land to its north with a site area of 6,151m²) was for filling of pond for growing of vegetables. It was rejected by the Committee in 1998 on the grounds of not complying with the then TPB PG-No. 12B in that there was insufficient information in the submission to demonstrate that the proposed development would have insignificant impacts on the environment, ecology, drainage and sewerage in the area including Mai Po Nature Reserve and Inner Deep Bay; and setting an undesirable precedent.

- 6.4 Application No. A/YL-PS/244 (covering the Site and the land to its south and north with a site area of about 1.3 ha) was for temporary open storage of construction materials (iron, steel and stone) for a period of 3 years. It was rejected by the Committee in 2006 on the grounds of not in line with the planning intention of the “REC” zone; not compatible with the rural character of the surrounding area; adverse drainage, ecological, environmental, traffic and landscape impacts on the surrounding areas; not in line with Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that the site did not have any previous planning approvals and that adverse departmental comments and local objections were received; and setting an undesirable precedent.
- 6.5 Application No. A/YL-PS/523 (covering the Site and the land to its south with a site area of about 4,984 m²) was for temporary public vehicle park (private cars, light goods vehicles and coaches) for a period of 3 years. It was rejected by the Committee in 2016 on the ground of setting an undesirable precedent.

7. **Similar Applications**

There is no similar application for the same use within the “REC” zone.

8. **The Site and Its Surrounding Areas (Plans A-1a to A-4)**

8.1 The Site is:

- (a) currently vacant;
- (b) located within the WBA; and
- (c) accessible via a local track leading to Tin Wah Road (**Plans A-2 and A-3**).

8.2 The surrounding areas have the following characteristics:

- (a) to the north, east and south are vacant land; and
- (b) to the west is suspected unauthorised development (UD) of parking of vehicles. To the northwest is Yuen Long Community Green Station (community recyclable centre) and across Tin Tsz Road is the residential area of the Tin Shui Wai New Town.

9. **Planning Intention**

The planning intention of “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 summarised 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) Should planning approval be given to the application for temporary use, the lot owner(s) will need to apply to his office 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. Application(s) 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(s) will be approved. If such application(s) 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 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.
- (b) Should the application be approved, the following conditions should be incorporated: no vehicle (excluding Light Goods Vehicle (LGV)) is allowed to access the Site; and no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.
- (c) Sufficient manoeuvring spaces shall be provided within the Site.

10.1.3 Comments of the Chief Highway Engineer/New Territories West,

Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Tin Wah Road.

Environment

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

- (a) He has no adverse comment on the application.
- (b) It is noted that the proposed development would not involve operation of heavy vehicles nor dusty operations.
- (c) There is no pollution complaint pertaining to the Site in the past three years.
- (d) The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP to minimize potential environmental nuisance to the surrounding area.

Nature Conservation

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

It is noted that the Site falls within an area zoned “REC” and has been paved. He has no adverse comment on the application from nature conservation point of view.

Landscape

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

- (a) The Site (with an area of about 741m²) is located to the east of the junction of Tin Tsz Road and Tin Wah Road and falls within an area zoned “REC” on the approved Ping Shan OZP No. S/YL-PS/18. The Site is the subject of four previous planning applications which were rejected by the Board. He had reservation on the last rejected Application No. A/YL-PS/523 for temporary vehicle park from landscape planning perspective. The current application seeks planning application for proposed temporary shop and services (convenience store and retail shop)

with ancillary office and toilet for a period of 3 years.

- (b) According to the aerial photo of 2019, the Site is vacant and unpaved. No existing tree is observed within the site boundary. The Site falls entirely within the WBA. The Site is located in an area of miscellaneous rural fringe landscape character predominated by ponds, woods and grasslands with some temporary structures to the north of the Site. With reference to the proposed layout plan, it is noted that a substantial area (about 429m²) at the centre portion of the Site is proposed to be covered by open shed structures. No approved planning application of similar nature or existing temporary structure of similar scale is observed in the WBA within the same "REC" zone. The proposed development is considered not entirely compatible with the landscape character of the surrounding area.
- (c) There is concern that approval of the application would set an undesirable precedent to encourage similar developments to the area. The cumulative impact of which would result in a general degradation of the landscape quality of the surrounding environment. In view of the above, he has reservation on the application from landscape planning perspective.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, a condition should be stipulated requiring the applicant to submit a revised drainage proposal, to implement and to maintain the proposed drainage facilities to his satisfaction.

Building Matters

10.1.8 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, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) 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 BD's 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) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of B(P)R at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire services installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) 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.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority.

Geotechnical

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

- (a) The applicant shall be reminded that the Site is located within the Scheduled Area No. 2 and may be underlain by cavernous marble. For any new development at the area, extensive geotechnical investigation may be required. Such investigation may require a high level of involvement of an experienced geotechnical engineer both in the design and in the supervision of geotechnical aspects of the works required to be carried out on the Site.

- (b) The applicant is also reminded to submit the proposed building works to BD for approval as required under the provisions of the BO.

Others

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

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

His office did not receive any comments from the locals on the application.

10.2 The following departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Project Manager(West), CEDD (PM(W), CEDD);
- (c) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Antiquities and Monuments Office, Development Bureau (AMO, DEVB);
and
- (f) Director of Leisure and Cultural Services (DLCS).

11. Public Comments Received During the Statutory Publication Period

On 21.8.2020, the application was published for public inspection. During the statutory public inspection period, three public comments from World Wide Fund for Nature Hong Kong (WWF) and two individuals (**Appendices III-1 to III-3**) were

received objecting to the application on the following grounds:

- (a) the proposed development is not in line with the planning intention of the “REC” zone;
- (b) the proposed development is not in line with the TPB PG-No. 12C;
- (c) approval of the application would set an undesirable precedent for other unauthorized developments; and
- (d) the proposed development would generate adverse landscape, traffic, ecological and environmental impacts on the surrounding areas.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (convenience store and retail shop) with ancillary office and toilet for a period of 3 years at the Site zoned “REC” on the OZP. Although the proposed use is not in line with the planning intention of the “REC” zone, which is intended primarily for recreational developments for the use of the general public, there is yet to have any known development proposals to implement the zoned use on the OZP. Hence, approval of the application on temporary basis would not frustrate the long-term planning intention of the “REC” zone.
- 12.2 The Site is currently surrounded by vacant land, vegetated knoll, suspected UD of vehicle park use (**Plan A-2**). The proposed use is not incompatible with the surrounding land uses.
- 12.3 The Site falls within the WBA. The intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the WCA which lies in close proximity of the Site and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. Within the WBA, for development or redevelopment which requires planning permission from the Board, an EcoIA would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA. DAFC has no adverse comment on the application from ecological point of view. Adverse ecological impacts are not envisaged.
- 12.4 There is also no adverse comment from the concerned Government departments, including DEP, C for T and CE/MN, DSD and D of FS. The development would unlikely create significant adverse environmental, traffic, drainage and fire safety impacts to the surrounding areas. Although CTP/UD&L of PlanD has reservation on the application as no planning approval of similar nature or temporary structure of similar scale is observed in the WBA within the same “REC” zone and approval of the application may set an undesirable precedent encouraging similar applications in the “REC” zone, both DEP and DAFC have no adverse comment from environmental and nature conservation perspective and the temporary structures of building height of 2.6m to 6m in height and GFA of about 495m² are not considered excessive in scale with the surrounding

area. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers

- 12.5 Although the Committee rejected four previous planning applications at the Site for temporary parking of vehicles (No. A/DPA/YL-PS/50 and A/YL-PS/523), filling of pond for growing vegetables (No. A/YL-PS/42) and temporary open storage (No. A/YL-PS/244) uses, the current application is different in nature and scale from the previous applications. The previous applications covering much larger site extent ranging from about 5,000m² to 4 ha for vehicle park / open storage / land filling uses were rejected on the grounds of, inter alia, not in line with the planning intention; not in line with Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses; not in line with Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance; not compatible with the surrounding environment; adverse environment, landscape, ecology, drainage and/or sewerage impacts; and/or setting an undesirable precedent. The current application only covers an area of about 741m² with some temporary structures for convenience store and retail shop uses. The application is in line with TPB PG-No. 12C and there is no adverse comment from concerned Government departments.
- 12.6 There were three public comments objecting to the application mainly on grounds stated in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments 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 for the proposed temporary shop and services (convenience store and retail shop) with ancillary office and toilet for a period of 3 years.
- 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 9.10.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 11:00 p.m. to 11:00 a.m., as proposed by the

- applicant, is allowed on the Site during the planning approval period;
- (b) only light goods vehicle, as proposed by the applicant, is allowed to access the Site during the planning approval period;
 - (c) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
 - (d) the submission of a revised drainage proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.4.2021**;
 - (e) in relation to (d) above, the implementation of the revised drainage proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.7.2021**;
 - (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
 - (g) the submission of a fire service installations proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.4.2021**;
 - (h) in relation to (g) above, the implementation of the fire service installations proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.7.2021**;
 - (i) the submission of a revised landscape proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **9.4.2021**;
 - (j) in relation to (i) above, the implementation of the landscape proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **9.7.2021**;
 - (k) if any of the above planning conditions (a), (b), (c) or (f) 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
 - (l) if any of the above planning conditions (d), (e), (g), (h), (i) or (j) 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 IV**.

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

- (a) the proposed use is not in line with the planning intention of the "REC" zone which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission to depart from the planning intention, even on a temporary basis; and
- (b) approval of the application would set an undesirable precedent for similar applications within the subject "REC" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

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 12.8.2020 and attachments
Appendix Ia	FI received on 14.9.2020 clarifying the items sold at the convenience store and retail shop
Appendix Ib	FI received on 24.9.2020 clarifying the operation of the retail shop
Appendix II	Previous Applications Covering the Site
Appendices III-1 to III-3	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan
Drawing A-3	Landscape Proposal
Drawing A-4	Drainage Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plan A-4

Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**