

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/MOS/124

<u>Applicant</u>	Water Supplies Department
<u>Site</u>	Government Land in D.D. 188, Mui Tsz Lam Village
<u>Site Area</u>	69.63 m ² (about)
<u>Land Status</u>	Government Land
<u>Plan</u>	Approved Ma On Shan Outline Zoning Plan (OZP) No. S/MOS/22
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Proposed Public Utility Installation (Fresh Water Tank)

1. The Proposal

- 1.1 On 22.8.2019, the applicant sought planning permission to construct a fresh water tank (FWT) at the application site (the Site), which falls within an area zoned “GB” on the approved Ma On Shan OZP No. S/MOS/22 (the OZP). According to the Notes of the OZP, ‘Public Utility Installation’ within “GB” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 The proposed FWT has a total gross floor area (GFA) of about 38.18 m² and comprises two major components i.e. the main structure and the power supply kiosk, serving part of the proposed water supply system to Mui Tsz Lam Village. The main structure is a single-storey concrete structure of about 6.5m (length) x 5.625m (width) x 6.4m (height) housing five accumulator tanks with capacity of 1 m³ each. The power supply kiosk is about 1.705m (length) x 0.95m (width) x 2.1m (height). The proposal involves excavation at a depth of 2.75m. The layout and section plans of the proposed FWT are shown in **Drawings A-2 and A-3**.
- 1.3 The Site is primarily an abandoned agricultural land which is currently vacant and mainly covered by groundcovers and grasses. According to the Landscape Mitigation Plan (**Drawing A-7**) submitted by the applicant, no tree felling would be involved but pruning of five trees and in-situ transplantation of a sapling of conservation importance (*Pavetta hongkonensis*) are required. Construction of the proposed FWT is targeted to commence by end of 2019 for completion in early 2021.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 22.8.2019 (Appendix I)
 - (b) Enclosures 1 to 4 including landscape and visual impact assessment and plant survey report (Appendix Ia)
 - (c) Further Information (FI) received on 10.10.2019 in response to public and departmental comments, and clarification on background information of the application (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form and the FI (Appendices I, Ia and Ib). They can be summarised as follows:

- (a) residents of the Mui Tsz Lam Village currently rely on stream water for their daily consumption. WSD intends to construct a water supply system to provide safe, reliable and readily accessible fresh water supply to the village. The proposed water supply system will comprise a fresh water pump house at Tai Shui Hang, the proposed FWT and the laying of approximately 2km of 100mm diameter fresh water mains. As the proposed FWT situates within an area zoned “GB” on the OZP, planning permission is required;
- (b) under the proposed direct pumping scheme, fresh water will be sourced from existing water mains at A Kung Kok Street and directly pumped to the consumers via the proposed pump house at Tai Shui Hang, which at the same time charges a set of accumulator tanks situated in the proposed FWT at the extremity of the supply network. The proposed scheme eliminates the need to construct a large water tank at the hillside of Ma On Shan Country Park which may cause adverse impact on the mature woodland of the country park;
- (c) the Site is considered as the only available and suitable site for the proposed FWT taking into account the hydraulic requirements, mainlaying and recurrent pumping cost and potential environmental, visual and landscape impacts. In order to provide steady and sufficient residual pressure throughout the village supply zone, level of the proposed FWT should be at +123mPD or above. Easy accessibility via existing footpath or track is essential to facilitate construction and future operation and maintenance of the FWT. There is no Government land with sufficient area to meet the elevation, operation and maintenance requirements of the proposed FWT in the “V” zone;
- (d) the proposed FWT will be designed to minimize landscape and visual impacts. Visual mitigation measures including shrub planting along the periphery of the FWT is proposed to soften the rigid form of the concrete structure. The wall of the FWT will be painted in earth green colour in order to blend in with the surrounding environment (Drawings A-4 to 7);

- (e) there are no adverse impact on environmental, drainage, traffic and geotechnical aspects. Standard pollution control measures will be implemented to minimize short-term environmental impacts during the construction stage. The overflow discharge which may occur from the proposed FWT will be solved with the design of the proposed drainage system. The traffic generated will be minimal to the existing traffic network as it is an unmanned installation. Parking or use of heavy construction plants and vehicles within the village is not anticipated. The proposed FWT does not involve site formation and will not have adverse impacts on the stability of slopes or be affected by slopes ;
- (f) the Site is covered by abandoned agricultural land habitat which is of low ecological value. The plant survey report including general wildlife survey is considered sufficient to address the minor ecological impact anticipated. Appropriate visual and landscape mitigation measures have been recommended (**Drawings A-6 and A-7**); and
- (g) the Development and Housing Committee of the Sha Tin District Council was consulted on 1.11.2018 and all members supported the proposal. There have been pressing demands from residents of the Mui Tsz Lam Village for reliable fresh water supply to the village. Throughout the design stage, the village representative was fully informed of the proposed FWT. Site visits were conducted with the village representative concerning the location of the FWT and alignment of the associated water mains.

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

As the Site involves Government land only, the “owner’s consent/notification” 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. 31) is not applicable to the application.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) are relevant to this application. The relevant assessment criteria are summarised as follows:

- (a) There is a general presumption against development (other than redevelopment) in a “GB” zone.
- (b) An application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas. With the exception of New Territories Exempted Houses, a plot ratio up to 0.4 for residential development may be permitted.
- (c) Applications for G/IC uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available. The plot

ratio of the development site may exceed 0.4 so as to minimize the land to be allocated for G/IC uses.

- (d) The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.
- (e) The vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided.
- (f) The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- (g) The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.
- (h) Any proposed development on a slope or hillside should not adversely affect slope stability.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Application**

There is no similar application within the same "GB" zone on the OZP.

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

7.1 The Site is:

- (a) located on the eastern fringe of Mui Tsz Lam Village and entirely within its village 'environs';
- (b) a piece of vacant land mainly covered with groundcovers and grasses; and
- (c) accessible by a footpath.

7.2 The surrounding area is predominantly rural in character. To the west of the Site are the houses of Mui Tsz Lam Village. To the east and south of the Site is the natural woodland.

8. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Sha Tin, Lands Department (DLO/ST, Lands D):

- (a) the Site falls within unleased and unallocated Government land and the village environs of Mui Tsz Lam Village; and
- (b) the applicant has applied for a permanent Government land allocation of the Site for the construction of the subject FWT (“the PGLA application”). If the planning application is approved by the Board, the PGLA application will be considered by his office and any approval would be subject to such engineering conditions as may be imposed by his office.

Nature Conservation

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

he has no adverse comment on the application, the plant survey report and the FI from nature conservation point of view.

Landscape and Visual

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

- (a) based on the aerial photo taken on 12.3.2018, the Site is situated in an area of rural landscape character comprising of natural woodlands and village houses. Although similar land use cannot be found in proximity, considering the proposed development is small in scale, the application is considered not incompatible with the surrounding environment;
- (b) referring to site visit dated 21.6.2019, the Site is located on a vegetated gentle slope covered with groundcovers and grasses. One

existing tree *Sterculia lanceolata* in fair condition is recorded within the Site, while four existing trees *Aporosa dioica*, *Dimocarpus longan*, *Elaeocarpus* sp. and *Listea monopetala* in fair to good condition are found adjacent to the Site. A sapling of conservation importance (*Pavetta hongkonensis*) is also found within the Site. Referring to the submitted Landscape and Visual Impact Assessment Report, all existing trees within or near the Site would be retained and the sapling of conservation importance would be in-situ transplanted. Significant adverse impact arising from the proposed development on landscape resources is not anticipated. In view of the above, she has no objection to the application from the landscape planning perspective; and

- (c) given the nature and scale of the proposed development, 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

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department; and
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should 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.

Environment

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

in view of the small scale and nature of the proposed development, it will unlikely cause major pollution.

9.2 The following Government departments have no objection to/ no comment on the application:

- (a) District Officer (Sha Tin), Home Affairs Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Commissioner for Transport;
- (e) Commissioner of Police;
- (f) Chief Highway Engineer/New Territories East, Highways Department;

- (g) Director of Electrical and Mechanical Services;
- (h) Project Manager/North, Civil Engineering and Development Department;
and
- (i) Head of the Geotechnical Engineering Office, Civic Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 30.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received from the Chairman of Sha Tin Rural Committee, the Conservancy Association and a private individual (**Appendix II**). While the Chairman of Sha Tin Rural Committee supports the application on the grounds of convenience for the villagers with stable fresh water supply, the other two object to the application mainly on the grounds of the inadequacy of ecological data of the plant survey report, the increase of human disturbance to the adjacent woodland; lack of innovative and attractive design for the proposed FWT; and the inappropriateness of locating the facilities serving the village in “GB” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed FWT at the Site which falls within an area zoned “GB”. The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. While the proposed FWT is not entirely in line with the planning intention of the “GB” zone, it is an essential component of the proposed water supply system to the village. The proposed location of the Site is considered appropriate taking into account the hydraulic requirements, mainlaying and recurrent pumping cost and potential environmental, visual and landscape impacts. There is no alternative Government land with sufficient area to meet the elevation, operation and maintenance requirements of the proposed FWT in the “V” zone.
- 11.2 The Site is a piece of vacant land mainly covered with groundcovers and grasses and is in close proximity to a footpath and the village cluster of Mui Tsz Lam. Though the Site is situated next to the natural woodland, significant ecological impact is not anticipated. DAFC has no adverse comment on the application, plant survey report and the FI from nature conservation point of view. The proposed FWT comprising single-storey structures is small in scale and not entirely incompatible with the surrounding rural environment. No tree felling would be involved but pruning of five trees is required. Visual and landscape mitigation measures including in-situ transplantation of a sapling of conservation importance, painting the wall of the FWT in earth green colour and shrub planting along its periphery will be implemented (**Drawings A-6 and A-7**). Given the nature and scale of the proposed development, significant adverse landscape and visual impact is not anticipated. In this regard, CTP/UD&L of PlanD has no objection to the application.
- 11.3 The proposed FWT is an essential public utility facility for the provision of adequate and reliable water supply to the existing village. DEP has no adverse comment on

the application from environmental perspective as it is unlikely cause major pollution. In view of the nature and design of the proposed FWT, it is also unlikely to cause adverse drainage, traffic and geotechnical impacts on the surrounding areas. Relevant departments including CE/MS, DSD, C for T and H(GEO), CEDD have no objection to/comment on the application. Given the above considerations, the proposed development is generally in line with the relevant criteria of the TPB PG-No. 10 as stated in paragraph 4.

- 11.4 The proposed FWT is supported by the members of the Development and Housing Committee of the Sha Tin District Council. Among the public comments received, two object to the application mainly on the grounds of inappropriate location and adverse environmental and visual impacts. In this regard, the planning assessment and comments of Government departments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and taking into account public comments in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.10.2023, 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 condition of approval and of advisory clauses are also suggested for Members' reference:

Approval Condition

the provision of 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 III**.

- 12.3 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 "GB" zone, for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is no strong planning justification in the current submission for a departure from the planning intention.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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 date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

4. Attachments

Appendix I	Application form
Appendix Ia	Enclosures 1 to 4
Appendix Ib	Further Information received on 10.10.2019
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Drawing A-3	Section Plan
Drawings A-4 to A-5	Photomontages
Drawing A-6	Visual Mitigation Plan
Drawing A-7	Landscape Mitigation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos