

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/305

- Applicant** : Mr. WONG Yiu Wing represented by R-riches Property Consultants Limited
- Site** : Lots 2570 (Part), 2571 (Part), 2572 (Part), 2573 (Part), 2574 (Part), 2575 (Part), 2576 S.A (Part), 2576 S.B (Part), 2577 (Part), 2578 (Part) and 2579 RP (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 947.7 m² (includes Government land of about 24.3 m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8
- Zoning** : “Village Type Development” (“V”)
- Application** : Temporary Place of Recreation, Sports and Culture (Venue for Villager Ceremony) 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 place of recreation, sports and culture (venue for villager ceremony) for a period of 3 years. According to the Notes of the OZP, temporary use or development for festival celebrations or religious functions not exceeding a period of two months is always permitted. However, the request for a period of 3 years by the applicant will require planning permission from the Town Planning Board (the Board). The Site is currently occupied by a vacant single-storey steel open-shed structure (**Plans A-2 and A-5**). It is not subject to any previous planning application.
- 1.2 The major development parameters of the current application are as follows:

Major Development Parameters	Application No. A/YL-TT/383
Applied Use	Proposed Temporary Place of Recreation, Sports and Culture (Venue for Villager Ceremony) for a Period of 3 Years

Major Development Parameters	Application No. A/YL-TT/383
Site Area	About 947.7 m ²
Total Floor Area (Non-domestic)	About 947.7 m ² (4-sides open shed structure)
No. of Structures	1
Height of Structures	8.6m (1 storey)
No. of Parking Space	Nil
Loading/Unloading Space	Nil

- 1.3 The Site includes a piece of Government land (GL) of about 24.3 m² which is located to the northeast corner of the Site. It is accessible by a local track road leading from Man Tak Road (**Plans A-2 and A-3**). According to the applicant, the proposed venue is mainly for holding celebrations and festivals, such as Tin Hau Festival (天后誕), Lantern Festival (元宵節) and “poon choi” feasts (盤菜宴) and also serves as recreation area for villagers. The proposed venue can accommodate a maximum of 200 people (about 20 tables for “poon choi” feasts). Food will be delivered to the venue by catering service and no cooking will be carried out at the Site. Plans showing the vehicular access leading to the Site and the site layout submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with appendix and plans received on 6.12.2017 (**Appendix I**)
 - (b) Letter dated 5.1.2018 clarifying the site condition, the proposed structure, operation hours and mode, no provision of parking and loading/unloading spaces as well as the location of the Government land (**Appendix Ia**)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 at **Appendix I** and the further information at **Appendix Ia**. They can be summarized as follows:

- (a) The applicant, who is a Village Representative of Ngau Hom Tsuen, submits the subject planning application on behalf of the residents of the village. The proposed development serves to provide a venue for ceremony, including local festivals such as Tin Hau Festival and Lantern Festival, weddings and funeral ceremony. During non-festival days, it is a place for gathering and recreation (e.g. table tennis) for the local villagers/residents.
- (b) The Site is located to the north of Flower Villar. Local villagers have been using the Site for ceremony and local events in the past. Due to the long rainy season in Hong Kong, the applicant proposes to construct an open-shed structure at the Site so that the venue would be covered.
- (c) The proposed venue can accommodate a maximum of 200 people (about 20 tables). No parking and loading/unloading spaces would be provided at the proposed development.

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by giving notification to the current owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action. Should a material change of use be identified on Site, which constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

5. Previous Application

The Site is not subject to any previous planning application.

6. Similar Application

There is no similar application for temporary place of recreation, sports and culture (venue for villager ceremony) in the subject “V” zone on the OZP.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) situated in Ngua Hom, Lau Fau Shan;
- (b) accessible by a local track road leading from Man Tak Road connecting to Tin Wah Road (**Plans A-2** and **Drawing A-1**); and
- (c) hard-paved and currently occupied by a vacant single-storey steel open-shed structure (**Plans A-4a** and **A-4b**).

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding areas are predominated by residential dwellings/structures intermixed with some areas occupied for parking of vehicles, fallow agricultural land and unused land;
- (b) the village cluster and Flower Villa is mainly located to the north and south of the Site; and
- (c) Sha Kong Wai Tsuen is located to the east of the Site.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structure are allowed to be erected without the prior approval of the Government
- (b) No permission is given for occupation of GL of about 24.3m² in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible to Man Tak Road through both GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) There is no Small House (SH) approved or under processing within the Site.
- (f) Should planning approval be given to the subject planning application, the lot owner will need to apply to his office to permit the structures to be erected or regularize any irregularity on site. Besides, 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. Such application will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to

such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment on the application from traffic engineering viewpoint.
- (b) No vehicles as defined in the Road Traffic Ordinance are allowed to be parked at the Site at any time during the planning approval period.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by the Transport Department.
- (b) Adequate drainage measures should be provided at the Site to prevent surface water flowing from the Site to the nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Man Tak Road.

Environment

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

- (a) The latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department (EPD) should be observed by the applicant.
- (b) There was no environmental complaint concerning the Site received in the past 3 years.

Drainage

9.1.5 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 drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of drainage proposal and the maintenance of the implemented drainage facilities for the

development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 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. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:
 - (i) The layout plan should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, 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

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and Buildings Department (BD) is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on site, prior approval and consent of the BD 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.
- (c) 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.

- (d) 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 respectively.
- (e) 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 the Building (Planning) Regulation at the building plan submission stage.

Other Aspects

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such operations or activities shall not cause any environmental nuisance and obstruction to the surrounding.
- (b) For any waste generated from the commercial/trading activities, the applicant should arrange disposal properly at her own expenses.
- (c) Proper licence / permit issued by his Department is required if food business or related place of entertainment is involved:
 - (i) The operation of any eating place should be under a food licence issued by FEHD. If the operator intends to operate a restaurant business in the territory, a General Restaurant/Light Refreshment Restaurant Licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132);
 - (ii) For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence (or Temporary Food Factory Licence) must be obtained from his department for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. Besides, a Fresh Provision Shop Licence is required for any person who intends to sell fresh, chilled or frozen beef, mutton, pork, reptiles (including live snake), fish (including live fish) and poultry at any premises before commencement of such business;
 - (iii) Any person who desires to keep or use any place of public entertainment for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more,

capable of accommodating the public presenting or carrying on public entertainment within Places of Public entertainment (PPE) Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display or an amusement ride and mechanical device which is designed for amusement. A Place of Public Entertainment Licence (or Temporary Place of Public Entertainment Licence) should be obtained from FEHD whatever the general public is admitted with or without payment; and

- (iv) In accordance with the Funeral Parlours Regulation, Cap. 132AD, a Funeral Parlour Licence shall be obtained from the Director of Food and Environmental Hygiene by any person who would like to conduct the business of a mortuary which means any premises or place set apart or habitually used for the reception, storage or treatment of human remains.

- (d) The application for the various licences, if acceptable by FEHD, will be referred to relevant government departments for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements.

9.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)

- (a) A copy of water mains record plan (showing the affected existing water mains) is enclosed in **Appendix IV**.
- (b) Existing water mains will be affected. A Waterworks Reserve within 1.5 metres from the centerline of the water mains shown in the enclosed plan shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose.
- (c) The Water Authority and his officer 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 construction, inspection, operation, maintenance and repair works and all other services across, through or under it which the Water Authority may require or authorize.
- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on the plan.
- (e) The developer shall bear the cost of any necessary diversion

works affected by the proposed development.

- (f) 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.

District Officer's Comments

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

His office has not received any public comments in writing from the village representatives in the vicinity regarding the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD); (Pending)
- (c) Chief Engineer/Sewerage Projects, Drainage Services Department (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD); and
- (g) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Periods

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.1.2017, 1 public comment was received who raised objection to the application mainly on the ground of possible closure of the Site for restricted use by some villagers (**Appendix II**).

11. Planning Considerations and Assessments

11.1 The subject application is for proposed temporary venue for villager ceremony at a site zoned "V" on the OZP. According to the applicant, the proposed venue is mainly for holding celebrations and traditional festivals as well as a recreation area for local villagers. The planning intention of the "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The applied use is considered not entirely in line with the planning intention of the "V" zone. However, according to DLO/YL of LandsD, there is no Small House approved or under processing within the Site. Moreover, it may help serve any such need for community and recreational facilities of the villagers. As such, approval of the development on a temporary basis would not frustrate the long-term planning intention of the "V" zone.

- 11.2 The applied development is located next to an access track and the applied use is considered not incompatible with the surrounding uses within the “V” zone which are predominantly occupied by rural residential dwellings (**Plan A-2**).
- 11.3 Government departments consulted, including DEP, AC for T/NT of TD, CHE/NTW of HyD, CE/MN of DSD and D of FS, have no objection to or adverse comment on the application. Significant adverse environmental, traffic, drainage and landscape impacts on the surrounding areas are not envisaged. Relevant approval conditions are recommended in paragraph 12.2 below to minimise the possible environmental nuisances generated by the temporary use or to address the technical concerns of other concerned Government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to keep the Site clean and tidy at all times and to note DFEH’s comments regarding licensing requirements for operation of “poon choi” feasts, public entertainment events and mortuary, DLO/YL, LandsD’s comments on the occupation of GL, as well as DEP’s advice to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 11.4 It is noted that there is an existing structure at the Site. BD has indicated that there is no record of approval by the BA for the structure existing at the Site. Should the application be approved, the applicant should be reminded that prior planning permission should be obtained before commencing the applied development and the planning permission granted is only to the use under application and should not be construed as an acceptance or condonation of any UBWs. Any UBWs on the Site may be subject to enforcement action by BA.
- 11.5 There is 1 public comment received on the application during the statutory publication period (**Appendix II**) mainly on the ground of possible closure of the Site for restricted use by village worthies. The considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment as mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary venue for villager ceremony could be tolerated for a period of 3 years.
- 12.2 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 26.1.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicles as defined in the Road Traffic Ordinance are allowed to be parked/stored at the Site at any time during the planning approval period;

- (b) the submission of a 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 26.7.2018;
- (c) in relation to (b) above, the implementation of the 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 26.10.2018;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a 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 26.7.2018;
- (f) in relation to (e) above, the implementation of the 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 26.10.2018;
- (g) if any of the above planning conditions (a) or (d) 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;
- (h) if any of the above planning conditions (b), (c), (e) or (f) 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; and
- (i) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are 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 planning intention of "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The development is not in line with the planning intention of the "V" zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 period of which the permission should be valid on a temporary basis.
- 13.3 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.

14. Attachments

Appendix I	Application Form received on 6.12.2017
Appendix Ia	Letter dated 5.1.2018 clarifying the Site condition, the proposed structure, operation hours and mode, no provision of parking and loading/unloading spaces as well as the location of the Government land
Appendix II	Public Comment
Appendix III	Advisory Clauses
Appendix IV	Water Mains Record Plan
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Section Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2018**