

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PN/61**

- Applicant** : Aquaponics Organic Company Limited
- Site** : Lot 47 in D.D.135, Nim Wan Road, Sheung Pak Nai, Yuen Long, New Territories
- Site Area** : 2,600 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9
- Zoning** : “Coastal Protection Area” (“CPA”)
- Application** : Proposed Filling of Land for Permitted Agriculture Use (Except Plant Nursery)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed filling of land for permitted agriculture use (except plant nursery). The Site falls within an area zoned “Coastal Protection Area” (“CPA”) on the Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9 (**Plan A-1**). According to the Notes of the “CPA” zone, any filling of land, including that to effect a change of use to any of those specified in Columns 1 and 2, requires planning permission from the Town Planning Board (the Board).
- 1.2 There is no previous application at the Site. The Site is currently partly grassed, partly occupied by two greenhouses (one is paved with tiles and one is not paved) in the northern portion, and partly used as open storage for tiles and miscellaneous items in the southern portion (**Plans A-4a to A-4c**).
- 1.3 The Site is accessible from Nim Wan Road (**Plan A-2**). The applicant proposes to pave an area of 1,925 m<sup>2</sup> covered by greenhouse structures with tiles of 3cm thick without using cement to flatten weed, form the ground for greenhouses and arrange hydroponic equipment. There will be no car parking space within the Site. The proposed site layout submitted by the applicant is at **Drawing A-1**.

1.4 In support of the application, the applicant has submitted the application form and attachments on 24.6.2020 (**Appendix I**).

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form (**Appendix I**). They can be summarized as follows:

To facilitate the hydroponic farming at the Site, an area of 1,925m<sup>2</sup> covered by greenhouse structures will be paved with tiles of 3cm thick without using cement in order to flatten weed, form the ground for greenhouses and arrange hydroponic equipment.

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

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

## **4. Background**

The Site is subject to planning enforcement action (No. E/YL-PN/60) against unauthorized development (UD) involving storage use (including deposit of containers). Enforcement Notice (EN) was issued on 8.7.2020 to the concerned parties requiring the discontinuation of the UD.

## **5. Previous Application**

There is no previous application at the Site.

## **6. Similar Application**

There is no similar application for filling of land for permitted agriculture use within the “CPA” zone.

## **7. The Site and Its Surrounding Areas (Plan A-2 to Plans A-4a and 4c)**

7.1 The Site is:

- (a) currently partly grassed, partly occupied by two greenhouses (one is paved with tiles and one is not paved) in the northern portion, and partly used as open storage for tiles and miscellaneous items in the southern portion; and
- (b) accessible from Nim Wan Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the east across Nim Wan Road are cultivated agricultural land, vacant land, scattered residential dwellings, ponds and plant nursery;
- (b) to the west and south are vacant land, ponds, cultivated agricultural land and scattered residential dwellings; and
- (c) to the north are plant nursery and open storage yards which are suspected unauthorized developments.

## **8. Planning Intention**

The “CPA” zoning is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or the development is an essential infrastructure project with overriding public interest may be permitted. Filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In view of the conservation value of the area within this zone, permission from the Board is required for such activities.

## **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, Lands Department):

- (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) Part of the lot is covered by a Letter of Approval (“LoA”) MT/LM 16009 for erection of a greenhouse with area 1,925m<sup>2</sup>.

### **Traffic**

- 9.1.2 Comments of the Commissioner for Transport (C for T):

He has no adverse comment on the application from traffic engineering point of view.

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

- (a) It is noted that no vehicular access is proposed or to be granted under

the application. He has no comment from highways maintenance point of view.

- (b) The applicant is reminded that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.

### **Agriculture and Nature Conservation**

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

- (a) The Site falls within the “CPA” zone on the OZP. On the basis of the available information, he has no strong view against the application from nature conservation and fisheries points of view provided that the adjacent fish ponds would not be affected / filled. It is recommended to implement good site management practice to prevent run-off affecting the fish ponds.
- (b) He has no strong view against the application from agricultural point of view. He received an application for Letter of Approval for erecting agricultural structure at the Site in October 2014. The applicant proposed to operate an aquaponics farm and erect a greenhouse. Since the proposed structure was directly related to the operation of the farm, he rendered his support to the application from agricultural point of view and forwarded the application to LandsD in October 2014 for further processing and approval.

### **Environment**

#### 9.1.5 Comment of the Director of Environmental Protection (DEP):

- (a) The applicant seeks planning permission for proposed filling of land for permitted agriculture use (except plant nursery) at the Site, which falls within an area zoned “CPA”. The applicant proposes to hard-pave an area of 1,925m<sup>2</sup> with tiles of 3cm thick to flatten weeds, form the ground and arrange hydroponic equipment for a greenhouse. The Site can be accessed from Nim Wan Road.
- (b) He has no adverse comment on the application. The applicant is also advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance and to implement appropriate mitigation measures practices as set out in the Recommended Pollution Control Clauses for Construction Contracts which are available at the following website:  
[https://www.epd.gov.hk/epd/english/environmentinhk/eia\\_planning/guide\\_ref/rpc\\_1.html](https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc_1.html)
- (c) There is no environmental complaint pertaining to the Site in the past three years.

## **Landscape**

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

- (a) The Site, located to the north of Nim Wan Road, falls within an area zoned “CPA” on the OZP. The Site is not subject to any previous planning application. The current application seeks planning permission for proposed filling of the Site of 1,925m<sup>2</sup> with tiles of 3cm for permitted agriculture use (greenhouse for hydroponic farming).
- (b) With reference to the site visit conducted on 13.7.2020 and aerial photo of 2019, the Site is partly vegetated and partly gravel paved. Construction material and a temporary structure (greenhouse) are observed within the Site. Some existing trees are found at the southern portion of the Site. The Site is situated in an area of rural coastal plain landscape character predominated by fish ponds, vegetated areas and cultivated land. The extensive paving area of the development is not entirely compatible with the surrounding natural environment.
- (c) When comparing the site photos since 2014, it is observed that the Site was blanket cleared in 2014 and part of the Site has been used for storage yard. Adverse landscape impact has taken place. There is concern that approval of the application would set an undesirable precedent to encourage other similar applications to the “CPA” zone to blanket clear the site prior to obtaining planning approval. The cumulative effect of which would result in a general degradation of the landscape quality of the surrounding natural environment and undermine the planning intention of the “CPA” zone. Therefore, he has reservation on the application from landscape planning perspective.

## **Drainage**

9.1.7 Comments of the Chief Engineer/Mainland North, DSD (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, he would suggest a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal including the mitigation measures for the proposed land filling works, to implement and maintain the proposed drainage facilities to the satisfaction of the Director of Drainage Services or of the Board.

## **Building Matters**

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

- (a) Site formation works are building works under the control of the Buildings Ordinance (BO). Before the proposed filling of land is 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. An Authorized Person (AP) should be appointed as the coordinator for the proposed site formation in accordance with the BO.
- (b) The Director of Lands may issue a certificate of exemption from prior approval and consent of the BA in respect of site formation works in the New Territories under the BO (Application to the New Territories) Ordinance. The applicant may approach DLO/YL, LandsD or seek AP's advice for details.

### **Fire Safety**

#### 9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire 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 be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is also reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Geotechnical**

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

He has no objection to the application. The applicant is reminded to submit the proposed building works to BD for approval as required under the provisions of the BO.

### **Others**

#### 9.1.11 Comments of the Antiquities and Monuments Office, Development Bureau (AMO, DevB);

In view of the location and scope of the proposed filling of land for permitted agriculture use (except plant nursery), the AMO has no objection to the application from cultural heritage viewpoint. Nevertheless, the applicant is required to inform AMO immediately if antiquities or supposed antiquities are discovered within the Site.

### **District Officer's Comments**

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

His office has not received any comment from the locals on the application.

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

- (a) Project Manager/New Territories West, CEDD (PM/NTW, CEDD);
- (b) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Leisure, Cultural and Services (DLCS);
- (e) Commissioner of Police (C of P); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

### **10. Public Comment Received During Statutory Publication Period**

On 3.7.2020, the application was published for public inspection. During the statutory public inspection period, four public comments were received from the Hong Kong Bird Watching Society (HKBWS), World Wide Fund for Nature Hong Kong (WWF), Designing Hong Kong and an individual objecting to the application (**Appendices II-1 to II-4**). The main objecting reasons are summarized below:

- (a) the development is not in line with the planning intention of the "CPA" zone. There is no strong planning justification for a departure from the planning intention;
- (b) the Board should not encourage "Destroy First, Develop Later" developments; and
- (c) the approval of the application would set an undesirable precedent to other developments.

### **11. Planning Considerations and Assessments**

11.1 The application is for proposed filling of land for permitted agriculture use (except plant nursery) at the Site zoned "CPA" on the OZP. The planning intention of the "CPA" zone is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment with a minimum of built development. However, the applicant proposes to pave the Site with tiles of 3cm thick for an area of 1,925m<sup>2</sup> (74% of the Site) for erection of two greenhouses for hydroponic farming use. The applicant has not provided strong justification in the submission why paving of tiles is required for site formation for the erection of greenhouses. In this regard, the proposed filling of land is not in line with the planning intention of the "CPA" zone, and there is no strong planning justification in the submission for a departure from such planning intention.

11.2 The Site is situated in an area of rural coastal plain landscape character predominated by fish ponds, vegetated areas and agricultural land. The extensive paving area is not compatible with the surrounding natural environment. CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective as the vegetated area within the Site has been cleared and site

formation work has taken place prior to obtaining planning approval. Approval of the application would set an undesirable precedent to encourage other similar applications to carry out vegetation clearance and form the site prior to obtaining planning permission. The cumulative effect of which would result in a general degradation of the rural coastal plain landscape character of the area.

- 11.3 Other relevant departments, including C for T, CE/MN, DSD, DEP and D of FS, have no objection to/adverse comment on the application. Significant adverse traffic, drainage and environmental impacts on the surrounding area are not expected.
- 11.4 There is no previous application within the Site nor similar application within the “CPA” zone on the OZP for proposed filling of land for permitted agriculture use. In this regard, approval of the application, which involves filling of land, would set an undesirable precedent for similar applications within the “CPA” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.
- 11.5 Four public comments were received objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for proposed filling of land for permitted agriculture use (except plant nursery) for the following reasons:
  - (a) the proposed land filling is not in line with the planning intention of the “CPA” zone, which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment with a minimum of built development. There is no strong planning justification in the submission for a departure from such planning intention, and the applicant fails to justify the need for land filling; and
  - (b) approval of the application would set an undesirable precedent for similar applications within the “CPA” zone, the cumulative effect of which will result in a general degradation of the rural environment.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **21.8.2024**, 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 are also suggested for Members’ reference:

### **Approval Conditions**

- (a) the submission and implementation of drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.5.2021**;



- (b) the submission and implementation of fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.5.2021**; and
- (c) if any of the above planning conditions (a) or (b) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

**13. 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 reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

**14. Attachments**

<b>Appendix I</b>	Application Form and attachments received on 24.6.2020
<b>Appendices II-1 to II-4</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2020**