

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

**APPLICATION NO. A/H21/155**

<b><u>Applicant</u></b>	: Coral Sea Ferry Service Company Limited
<b><u>Premises</u></b>	: Portion of Sai Wan Ho Ferry Pier, Tai Hong Street, Sai Wan Ho, Hong Kong
<b><u>Total Floor Area of Premises</u></b>	: 87.74m <sup>2</sup>
<b><u>Land Status</u></b>	: Government land subject to Tenancy Agreement No. GPA H959: (a) 1 year certain and thereafter quarterly commencing from 1.11.2009; (b) restricted for operation of ferry service; and (c) subletting part of the pier premises upon application under commercial concession of the tenancy
<b><u>Plan</u></b>	: Approved Quarry Bay Outline Zoning Plan (OZP) No. S/H21/28
<b><u>Zoning</u></b>	: “Open Space” (“O”)
<b><u>Application</u></b>	: Eating Place (Restaurant)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for ‘Eating Place (Restaurant)’ use at the application premises (the Premises) in order to regularise the operation of an existing restaurant inside the Sai Wan Ho Ferry Pier (the Pier) at Tai Hong Street, Sai Wan Ho<sup>1</sup>. The Premises falls within an area zoned “O” on the approved Quarry Bay OZP No. S/H21/28 (**Plan A-1**). According to the Notes of the OZP, planning permission from the Town Planning Board (the Board) is required for ‘Eating Place’ use within the “O” zone.
- 1.2 The Premises is located at the south-eastern part of the Pier (**Plan A-2**) and has a floor area of 87.74m<sup>2</sup>. It is currently used as a restaurant (**Plans A-3 and A-4**) without valid planning permission.

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<sup>1</sup> The Premises is the subject of previous temporary planning approval for ‘Eating Place’ use under Application No. A/H21/145 which has lapsed upon expiry of the approval period on 8.4.2020. Detailed information are at paragraph 4.

- 1.3 In support of the application, the applicant has submitted the application form with attachments received on 11.10.2021 (**Appendix I**).

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

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**). They can be summarised as follows:

- (a) the applicant operates two passenger ferry lines but there are only a few hundred passengers per day for each line. The fare revenue could not cover the operating expenses. The applicant needs to sublet the Premises so as to generate rental income to cross-subsidise the ferry operation.
- (b) due to an unexpected change in personnel, the applicant mistakenly failed to apply for renewal of the previous planning approval under application No. A/H21/145. Once informed by the Government Property Administrator (GPA) that a planning permission is required to continue the operation of current restaurant at the Premises, the applicant has taken immediate follow-up action by submitting the current application to regularise the operation of the restaurant.
- (c) the mitigation measures for air, noise and sewerage impacts including adopting electric cooking to minimise air emission with air exhaust system provided on the seaward side of the pier, keeping the solid brick wall at the side of the restaurant facing Tai Hong Street and requesting people to use the sliding door to minimize noise nuisance, and provision of sewerage system, have been implemented; and
- (d) the layout of the Premises is in compliance with building regulations and licensing requirements. There has been no alteration and addition works to the Premises since the operation of the restaurant and hence the building structure would not be affected. Besides, annual inspection will be carried out by qualified persons.

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

As the Premises 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. 31A) are not applicable to the application.

## **4. Previous Applications**

- 4.1 The Premises is the subject of 5 planning applications for the same use. Application No. A/H21/121 for ‘Eating Place’ (Restaurant)’ use was first rejected by the Metro Planning Committee (the Committee) for reasons of insufficient information in the submission to demonstrate that the environmental and traffic nuisances generated by the proposed use to the

nearby residents could be mitigated, and that the proposed use would not cause adverse sewerage impact on the surrounding areas. The applicant then submitted proposals to address the environmental, sewage discharge and traffic issues. Noting that the pier was still required for ferry services, the granting of a temporary approval to the proposed restaurant would not affect the long-term planning intention for the Premises and the applicant's proposal to address the technical issues, the Board upon review on 8.4.2005 approved the application on a temporary basis for a period of 3 years, subject to approval conditions including the design and provision of a sewage pumping system and a sewage pipe connecting the restaurant with the pier to the existing public sewage system at Tai On Street or alternative sewage discharge arrangement, and the design and provision of emergency vehicular access, water supply for firefighting and fire service installations. The approval conditions were already complied with by the applicant.

- 4.2 On 22.2.2008, 18.2.2011, 7.2.2014 and 7.4.2017, the Committee approved Applications No. A/H21/131, A/H21/133, A/H21/138 and A/H21/145 for renewal of the temporary planning approval for a period of 3 years up to 8.4.2011, 8.4.2014, 8.4.2017 and 8.4.2020 respectively subject to the condition on the provision of water supply for fire fighting and fire services installations. The condition was complied with by the applicant. As the applicant did not apply for renewal of the latest approval under Application No. A/H21/145, the planning permission lapsed upon expiry of the approval period on 8.4.2020.

## 5. Similar Applications

There are two similar applications for commercial uses within the "O" zones in the Quarry Bay area (**Plan A-1**). Application No. A/H21/144 was approved with conditions by the Committee on 3.3.2017 for proposed retail and fast food shop at another premises in the same pier on considerations that the Pier was still being in operation, there was no programme for development of the "O" zone, and the proposed use could also serve users of the adjoining open space. Application No. A/H21/88 for proposed restaurants/fast food shops at another "O" zone adjoining the One Island East was rejected upon review by the Board on 17.1.1997 mainly on the grounds of being not in line with the planning intention of "O" zone. Details of these applications are summarised in **Appendix II**.

## 6. The Premises and Its Surrounding Areas (Plans A-1 to A-4)

### 6.1 The Premises is:

- (a) located at the south-eastern part of the Pier. The Pier is operated by the applicant, providing ferry services between Sai Wan Ho and Kwun Tong/Sam Ka Tsuen (Lei Yue Mun);
- (b) currently occupied by an existing restaurant without valid planning permission. The remaining area of the Pier consists of ticket counter, a store room, passenger waiting area and toilets. Planning permission for

conversion of the said store room for proposed retail and fast food shop has been granted under Application No. A/H21/144 on 3.3.2017; and

(c) accessible via Tai Hong Street.

6.2 The surrounding areas of the Premises have the following characteristics:

(a) mainly a residential neighbourhood including the residential developments of Lei King Wan and Grand Promenade, with government, institution or community facilities and open spaces. There are some restaurants on the ground floor of the residential blocks of Lei King Wan opposite to the Premises across Tai Hong Street;

(b) located to the north-west along the seafront is the Sai Wan Ho Harbour Park which further connects to the Quarry Bay Park as part of the existing waterfront promenade, whereas to the south-east is the Marine Police Regional Headquarters and Harbour Divisional Headquarters ; and

(c) there are on-street car parking spaces along Tai Hong Street.

## **7. Planning Intention**

The “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

## **8. Comments from Relevant Government Departments**

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

### **Land Administration**

8.1.1 Comments of the District Lands Officer/Hong Kong East, Lands Department:

the Premises is on government land subject to the tenancy agreement under the management by the GPA.

8.1.2 Comments of GPA:

(a) no objection to the application subject to the comments below:

(b) the Pier is under the purview of the Transport Department (TD). TD is statutorily empowered to give consent to the ferry operators under Reg. 15 of the Ferry Services Regulations (Cap 104A) for use other than the operation of a licenced service during the validity period of their ferry service licences;

- (c) GPA is only the leasing facilitator of TD and has prepared and executed the tenancy agreement with Coral Sea Ferry Service Company Limited (the Tenant) in accordance with the requirements of TD for the purposes of passenger ferry terminal for the embarkation and disembarkation of passengers using the ferry services from Sai Wan Ho to Sam Ka Tsuen and vice versa, and Sai Wan Ho to Kwun Tong and vice versa operated by the Tenant. Under the tenancy agreement No. GPA H959, the Tenant may sublet part of the Pier by way of commercial concession for purposes other than the above ferry services use with GPA's approval upon receipt of no objection or adverse comments from relevant bureau/departments;
- (d) a commercial concession approval had been granted to the Tenant for restaurant use at the Premises up till 8.4.2020 under the said mechanism. The Tenant has recently applied for commercial concession approval for the same use up till 28.2.2022; and
- (e) subject to the Board's approval on the subject application and no adverse comments from all other bureau/departments, approval may be given for the commercial concession application and subject to such terms and conditions as appropriate based on comments received.

### **Architectural and Visual Aspects**

#### **8.1.3 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):**

it is noted that the application involves no change to the building height and overall massing. No comment on the application from the architectural and visual impact point of view.

#### **8.1.4 Comments of the Assistant Director (Property Services), ArchSD:**

- (a) no particular comment on the application from maintenance point of view subject to obtaining consent from owners and management parties of the Premises; and
- (b) in case of any addition and alteration works to be implemented, the applicant shall appoint an Authorised Person (AP) and/or Registered Structural Engineer (RSE) to ensure fully comply with the Buildings Ordinance/Regulations, licensing requirement and other relevant statutory requirements. The AP/RSE shall bear the full responsibility of his/her design, planning and supervision of the construction works. Any proposed wall and floor openings shall be properly sealed up to ensure water tightness and be made good to match with the existing finishes. No disturbance to existing waterproofing

membrane is expected. No part of the works may have any adverse effect, structurally or in other ways, on the existing Premises.

### **Traffic Aspect**

#### 8.1.5 Comments of the Commissioner for Transport (C for T):

##### Traffic Engineering (HK) Division

- (a) no comment on the application;

##### Ferry and Paratransit Division

- (b) at present, the Pier is used by the licensed ferry services “Sai Wan Ho – Sam Ka Tsuen” and “Sai Wan Ho – Kwun Tong” as the berthing point. The ferry routes are operated by the Coral Sea Ferry Service Company Limited; and
- (c) the Government has all along allowed ferry operators to sublet surplus spaces of ferry piers for commercial concessions with a view to generating additional non-fare box revenue to cross-subsidize ferry operation. The Ferry and Paratransit Division supports the current application from ferry operations point of view as the proposed subletting would not affect the ferry operation and this would help reduce the pressure on fares.

### **Environmental Aspect**

#### 8.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) according to the information from the applicant, the applicant has already adopted measures to minimise the air quality, noise and sewerage impact, such as air ventilation system with exhaust facing the seaward side has been installed, wastewater from the subject Premises has been diverted to nearby public sewer, and the side of the restaurant facing Tai Hong Street is constructed by solid brick work;
- (b) in view of the above, the Environmental Protection Department has no objection to the application. Nonetheless, the applicant should be reminded to:
  - (i) strictly abide by the measures mentioned above;
  - (ii) observe the Air Pollution Control Ordinance, and adopt the best available techniques for the control of oily fume and odour emissions and other relevant suggestions as stated in the pamphlet “Control of Oily Fume and Cooking Odour from Restaurants and Food Business”

([http://www.epd.gov.hk/epd/english/environmentinhk/air/guide\\_ref/pamphlet\\_oilfume\\_eng1.html](http://www.epd.gov.hk/epd/english/environmentinhk/air/guide_ref/pamphlet_oilfume_eng1.html)), with a view to minimizing the potential cooking fume nuisance generated by the possible uses (such as kitchen, etc.), if any, affecting the nearby air sensitive receivers; and

- (iii) strictly observe all requirements under other relevant pollution control ordinances, including Water Pollution Control Ordinance and Noise Control Ordinance, etc. In addition, the applicant should be reminded to apply for a licence in accordance with the Water Pollution Control Ordinance.

### **Fire Safety Aspect**

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

no objection in principle to the application subject to fire service installations being provided to the satisfaction of the Fire Services Department (FSD). Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

### **Licensing Matters**

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

- (a) no special comment on application for renewal of the subject planning approval; and
- (b) a general restaurant licence is issued to the restaurant “埠” at the Premises. The Food and Environmental Hygiene Department (FEHD) has not received any complaint related to the said restaurant in the past 3 years. If the tenant/occupier of the shop unit intends to conduct any food business under the Food Business Regulation, Cap. 132X thereat, the tenant/occupier should obtain approval from FEHD for the food business.

### **Open Space Aspect**

#### 8.1.9 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) there is no programme for development of the “O” zone;
- (b) the Eastern District Leisure Services Office advises that the Premises falls outside Leisure and Cultural Services Department (LCSD)’s jurisdiction. However, since the Premises is in the very close vicinity of Sai Wan Ho Harbour

Park (SWHHP), the relevant authorities/departments who is managing/ administering the temporary eating place (restaurant) should pay attention to the following to avoid inducing public complaint:

- (i) SWHHP is a gazetted venue under the management of LCSD, which is governed by Pleasure Grounds Regulation Cap. 132 BC (PGR). The leisure venue (including SWHHP) under the PGR is designated for leisure, recreational and our operational use only. Relevant operator(s), tenant(s) and stake-holder(s) of the said Eating Place would be prohibited to bring or transport their goods & products by barrow, truck, vehicles or wheeled bicycle, etc. or carry any load therein to the subject pier via the allocated area / boundary of the SWHHP; and
- (ii) relevant operator(s), tenant(s) and stake-holder(s) of the said Eating Place should not induce adverse impact, such as hygienic problem at SWHHP and to the venue users.

8.2 The following government departments have no objection to/no comment on the application:

- (a) Harbour Office, Development Bureau;
- (b) District Officer (Eastern), Home Affairs Department;
- (c) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (d) Chief Engineer/Construction Division, Water Supplies Department;
- (e) Chief Highway Engineer/Hong Kong, Highways Department;
- (f) Project Manager (South), Civil Engineering and Development Department;
- (g) Commissioner of Police;
- (h) Chief Building Surveyor/Hong Kong East and Heritage, Buildings Department; and
- (i) Director of Marine.

## **9. Public Comments Received During Statutory Publication Period**

On 19.10.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period, which ended on 9.11.2021, no public comment was received.

## **10. Planning Considerations and Assessment**

- 10.1 The Premises is located within the existing Sai Wan Ho Ferry Pier which is zoned “O” on the approved Quarry Bay OZP. The Pier is currently in use and there is no implementation programme for the planned open space. While the applicant currently seeks planning permission (not temporary basis) for “Eating Place” use, it is considered that the approval of the



current application would not jeopardise the long-term planning intention of the “O” zone as the implementation of open space development in the future would associate with the removal of the existing pier structure as well as the proposed eating place. Besides, TD supports the proposed use from ferry operations point of view as it would help reduce the pressure on fares.

- 10.2 With a floor area of 87.74m<sup>2</sup> and being located within the Pier, the eating place under application is relatively small in scale and it is not anticipated to have any significant impact on the overall provision of the open space in the area. The Premises has been used as an eating place since 2005, and the eating place use is considered not entirely incompatible with the surrounding residential neighbourhood where there are some restaurants on the ground floor of the residential blocks of Lei King Wan (**Plan A-2**). TD also considers that the eating place would not affect the ferry operation. Other relevant government departments consulted have no objection to or no adverse comment on the application. Should the application be approved, an approval condition to ensure fire safety is suggested in paragraph 11.2 below to address FSD’s concern. Advisory clauses are also recommended to remind the applicant to seek Harbour Office of Development Bureau’s view on the need to consult Harbourfront Commission on the proposed development, and to draw the applicant’s attention to relevant pollution control ordinance and licensing requirement, as stated in **Appendix III**.
- 10.3 Temporary planning permission for ‘Eating Place’ use at the Premises was granted firstly in 8.4.2005 and subsequently renewed 4 times until 8.4.2020. While the applicant did not apply for renewal of the latest approval and the planning permission lapsed upon expiry of the approval period on 8.4.2020, there has been no change in the planning circumstances and the surrounding land uses since the granting of the last temporary approval in 2017. Among the two similar applications for commercial uses within “O” zones in the Quarry Bay area, application No. A/H21/144 at another premises in the same pier was approved in 2017 on considerations as mentioned in paragraph 5 above. Application No. A/H21/88 at another “O” zone was rejected upon review by the Board in 1997 under different planning circumstances since the restaurant/fast food shops were proposed in the existing open space.
- 10.4 No public comment was received during the statutory exhibition period.

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

- 11.1 Based on the assessment made in paragraph 10, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 10.12.2025, and after the said date, the permission shall cease to have effect unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

The following condition of approval and advisory clauses are 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**.

- 11.3 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 "Open Space" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no planning justification for deviating from such a planning intention.

**12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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 period of the planning permission should expire.
- 12.3 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.

**13. Attachments**

<b>Appendix I</b>	Application Form received on 11.10.2021
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Internal Floor Plan Submitted by the Applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3 to A4</b>	Site Photos