

APPLICATION FOR AMENDMENT OF PLAN
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. Y/H10/10

<u>Applicant</u>	Designing Hong Kong Limited
<u>Plan</u>	Approved Pok Fu Lam Outline Zoning Plan (OZP) No. S/H10/19
<u>Application Site</u>	Cyberport Waterfront Park
<u>Site Area</u>	about 44,311m ²
<u>Land Status</u>	Government Land
<u>Zoning</u>	“Open Space” (“O”)
<u>Proposed Amendment</u>	To rezone the application site from “O” to “O(1)”

1. The Proposal

- 1.1 The applicant proposes to rezone the application site¹ (the Site) from “O” to “O(1)” (**Drawing Z-1** and **Plan Z-2**). Majority of the Site is currently occupied by the existing Cyberport Waterfront Park (the Park), which is under a Short Term Tenancy (STT) for passive recreational and landscaping purpose since 2009. The Hong Kong Cyberport Management Company Limited (HKCMCL) is responsible for the management and maintenance of the Park.
- 1.2 The planning intention of the “O(1)” zone, as proposed by the applicant, is same as the “O” zone, i.e. primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. For the Notes of the OZP, the applicant proposes to add a new set of Notes for the proposed “O(1)” zone, which is also the same as that of “O” zone except ‘Pier’ is a Column 1 use instead of a Column 2 use. The applicant also proposes to incorporate the requirement relating to submission of a master layout plan (MLP) and a landscape design proposal to the Town Planning Board (the Board) for approval in the Remarks of the Notes

¹ The same applicant has submitted two other applications (No. Y/H10/11 and Y/H10/12) requesting to rezone coastal areas of Pok Fu Lam at Telegraph Bay and Sandy Bay from “O” to “Other Specified Use” annotated “Promenade” (“OU(Promenade)”) and “Government, Institution or Community” to “O” or “OU(Promenade)” respectively (**Plan Z-1**). The two applications (No. Y/H10/11 and Y/H10/12) will be discussed at the same meeting.

of the proposed “O(1)” zone.

- 1.3 In support of the application, the applicant has submitted an application form with supplementary information (**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 at **Appendix I** and are summarised as follows:

- (a) unlike a STT which may not be renewed in case a user underperforms or fail to meet public expectations, the intention to allocate the Park to HKCMCL permanently creates an obligation for careful scrutiny. While some of the proposed enhancements of the Park are for residents and other park users, HKCMCL has expressed their wish to showcase innovation and technology in the Park, of which may lead to conflict with other users and interests in the Park. According to the applicant’s survey, residents and park users opted for maintaining the current activities allowed in the Park, including dog walking, roller-blading, cycling, flying kites and resting on the lawn; and
- (b) by requiring MLP approval, the Board retains its role as a gate keeper.

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. 31A) are not applicable to the application.

4. Background

- 4.1 The draft OZP No. S/H10/18 incorporating the amendments in association with the Cyberport expansion and the deletion of the obsolete alignment of Route 7 was gazetted on 27.9.2019 for public inspection. The amendments involved, among others, the rezoning of the Cyberport expansion site to “Other Specified Uses” annotated “Cyber-Port(1)” and the Park to “O”. After giving consideration to the representations and comments on 5.6.2020, the Board decided to further amend the OZP by incorporating in the Notes of the “OU(Cyber-Port)(1)” zone for the submission of a layout plan for the Board’s approval to partially meet some representations with a view to scrutinising the design of the proposed development of the Cyberport 5.
- 4.2 The further proposed amendment to the draft OZP was published on 26.6.2020. Some further representations (FRs) provided views on the incorporation of the submission of layout plan requirement for the Park, which is zoned “O” on the OZP. During the deliberation of FRs on 25.9.2020, Members noted that given the Park was zoned “O” and had already been opened for public use, further amendment to the OZP to incorporate the requirement of layout plan submission

for the Park was considered not necessary. In fact, the same request for a layout plan submission for the Park for the Board's scrutiny had been raised by some representers in the hearing meeting on 5.6.2020 and the Board decided at that time not to propose any amendment to the OZP for the area under the "O" zone. The Board also considered that the proposal to extend the requirement of layout plan submission to the "O" zone covering the Park was not related to the further proposed amendment, and agreed to amend the draft OZP by the further amendment. The draft OZP was subsequently approved by the Chief Executive in Council on 5.1.2021 and the approved OZP No. S/H10/19 was exhibited on 15.1.2021.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

There is no similar application for amendment to OZP from "O" to "O(1)".

7. The Site and Its Surrounding Areas (Plans Z-2 to Z-4 and Site Photos on Plans Z-5 to Z-6)

7.1 The Site is:

- (a) located at the waterfront of Telegraph Bay and in front of the existing Cyberport development;
- (b) currently occupied by the Park, which is managed and maintained by HKCMCL under a STT for passive recreational and landscaping purpose; and
- (c) there is currently a landing step at the southern edge of the Park. The landing steps is currently closed for safety reason and will be open for public upon request.

7.2 The surrounding areas have the following characteristics:

- (a) to the east is the existing Cyberport development;
- (b) to the south is the Telegraph Bay Salt Water Pumping Station; and
- (c) to the north is the proposed development of Cyberport 5 and to further north is the Hong Kong West Drainage Tunnel Western Portal at Telegraph Bay.

8. Planning Intention

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

9. Comments from Relevant Government Departments

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

Policy

9.1.1 Comments of the Secretary for Development (SDEV):

it is understand that the proposed Cyberport expansion includes the development of Cyberport 5 and enhancement of the Park which is currently zoned “O” on the OZP. For an “O” zone, it is rather uncommon to require submission of a MLP and a landscape design proposal to the Board for approval under the Town Planning Ordinance. Noting that the lease for Cyberport 5 and the Park is under processing by LandsD, consideration could be given to incorporating suitable requirements in the lease to control the landscape design of the Park without resorting to rezone the Site to “O(1)”. On the inclusion of ‘Pier’ use in the proposed “O(1)” zone, as the Site is facing open sea and a major shipping channel, they would defer to the relevant government departments to advise on the suitability of including ‘Pier’ as an always permitted use for the Site.

9.1.2 Comments of the Secretary for Innovation and Technology:

(a) it is noted that the applicant proposes to incorporate the requirement to submit a MLP and a landscape design proposal for any new development or redevelopment to the Board for approval in the proposed Remarks of the Notes of the proposed “O(1)” zone for the Park. Under the Cyberport expansion project as a whole, the application site will remain as a waterfront park, which is already reflected in the Planning Intention of the Notes to “O”. Neither HKCMCL, which manages the Park, nor the Government has any plan to change this. As such, the submission of a MLP and a landscape design proposal for the Board’s approval is considered totally unnecessary. This will in fact further delay the development programme of the Cyberport expansion project, including the Park, which is highly undesirable. The additional space generated from the Cyberport expansion project is much needed for nurturing start-ups and promoting the innovation and technology development in Hong Kong. The enhanced Park is also much desired by the nearby community and the general public; and

(b) the landing steps at the Park is currently under the management of

HKCMCL. The landing steps area is neither a public pier nor does it serving any public ferry routes. It currently remains closed and will only be open for public upon request. Under the Cyberport expansion project, the landing steps will be enhanced and its opening is subject to further consideration. Hence, the current arrangement of putting ‘Pier’ under Column 2 works well and they do not see the need for this to change to Column 1.

Land Administration

9.1.3 Comments of the District Lands Officer/Hong Kong West and South, Lands Department (DLO/HKW&S, LandsD):

HKCMCL has applied to LandsD for land grant for the proposed Cyberport expansion project including the enhancement of the Park. The proposed land grant is still under processing in consultation with the relevant bureaux/departments. Under the current drafting of land grant conditions, the prospective grantee is required to submit plans for approval in respect of the enhancement of the waterfront park under the the proposed land grant.

Open Space

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

- (a) no particular view on the proposals as the application would not cause to reduce the total area of open space in the Pok Fu Lam area or require the department for any development in connection; and
- (b) the Site is currently maintained by the HKCMCL under STT and it is not intended to return the Site to the Government for management and maintenance. Besides, pier facility falls outside LCSD’s ambit that they have no comment on the proposal to rezone the Site from “O” to “O(1)” so as to change the ‘Pier’ use from Column 2 to Column 1 (i.e. from users that may be permitted with or without conditions on application to the Board to users always permitted).

Transport

9.1.5 Comments of the Commissioner for Transport (C for T):

Given that there is no concrete details of the proposal in the application, C for T is unable to conduct thorough assessment or analysis on the application at this stage.

Environment

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

it is noted that the application does not contain any development proposal and environmental information. Based on the limited information, DEP notes that under the application, it is proposed to rezone the Site from “O” to “O(1)” in which ‘Pier’ use will become always permitted. With this respect, it is noted that the coastline of the Site is only about 80m from the nearest residential development, i.e. Residence Bel-Air. Given the close proximity, the said residential development may be subject to adverse air quality and noise impact from the ‘Pier’ use at the Site if suitable design and measure are not in place. In view of this, it appears not appropriate to always permit ‘Pier’ use at the Site from environmental planning perspective.

Urban Design and Landscape

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

Landscape

- (a) in view of the applicant’s intention to maintain the current use of the Site as open space, significant change in the landscape aspect of the Site and adverse landscape impact arising from the application is not anticipated. Regarding the applicant's concern on the future design of the Park, it is considered that such concern may be addressed under the existing mechanism as it is understood that such requirement to control the design and management of Park would normally be incorporated under the lease; and

Urban Design

- (b) no specific comment on applicant’s proposal.

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

- (a) Chief Architect/Central Management Division 2, Architectural Services Department;
- (b) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (c) Chief Highway Engineer/Hong Kong, Highways Department;
- (d) Chief Building Surveyor/ Hong Kong West, Buildings Department;
- (e) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (f) Chief Engineer/Port Works, Civil Engineering and Development Department (CEDD);
- (g) Project Manager (South), CEDD;
- (h) Head of Geotechnical Engineering Office, CEDD;
- (i) Director of Agriculture, Fisheries and Conservation;
- (j) Director of Fire Services;

- (k) Director of Marine;
- (l) Commissioner of Police; and
- (m) District Officer (South), Home Affairs Department.

10. Public Comments Receiving During Statutory Publication Periods

- 10.1 On 26.3.2021, the application was published for public inspection. During the first three weeks of public inspection periods, a total of 1,042 public comments were received, including 1,041 supporting and one opposing. Among the 1,041 supporting comments, 1,039² are in the form of standard letter format with some providing additional comments on top. A sample of standard letter format is at **Appendix IIa**. The remaining two supporting comments submitted by individuals are at **Appendix IIb**. An opposing comment submitted by HKCMCL is at **Appendix IIc**.
- 10.2 The supporting comments mainly support the application to rezone the Park from “O” to “O(1)” by requiring submission of MLP and landscape design plan for the Board’s approval. Some also provide views on the management of the Park and facilities to be provided therein with enhancements, such as sports and community facilities, children and elderly facilities, and be pet friendly.
- 10.3 The opposing comment is submitted by HKCMCL and its objecting ground is that the Board, after due consideration of the proposed amendment to the draft OZP and the views expressed in the representations received under the statutory process on 25.9.2020, had decided the submission of MLP or landscape design proposal in respect of the open space was not required. HKCMCL also considers not necessary to impose additional requirement on the Site as the main works to be conducted on the Park is to enhance the existing facilities and to improve the Park for public’s enjoyment. HKCMCL plans to engage nearby residents, members of the local community and relevant stakeholders to listen to their views on how best to enhance to the Park to meet the needs of the community. The views received will be taken into consideration and incorporated as far as practicable in the landscape design of the Park. Indeed, HKCMCL states that they have made clear this intention to the Board in its representation at the hearing meeting held in 2020. HKCMCL considers that a requirement to submit a MLP will also unnecessarily delay the enhancement programme of the Park for public enjoyment.

11. Planning Considerations and Assessments

- 11.1 The applicant proposes to rezone the Site from “O” to “O(1)”. The planning intention of the proposed “O(1)” zone is same as the existing “O” zone while the proposed Notes of the “O(1)” zone is also the same as that of the “O” zone except that ‘Pier’ use is under Column 1 instead of Column 2 and the requirement relating to submission of a MLP and a landscape design proposal for the Board’s consideration is incorporated in the Remark of the Notes.

² Among the 1,039 supporting comments, three are submitted by Incorporated Owners including Woodbury Court, Blocks 41 to 44 of Baguio Villa and Scenic Villas.

Inclusion of ‘Pier’ use under Column 1

- 11.2 The applicant has not submitted any justifications nor technical assessments to demonstrate the feasibility of having a ‘Pier’³ at the Site and whether such use would not cause adverse environmental impacts if such use is always permitted. The applicant has also not explained the management and maintenance issues of the proposed pier. In this regard, C for T is not able to assess the proposal and DEP advises that given the close proximity of the coastline from the residential development, there may be air quality and noise impact from the ‘Pier’ use at the Site if suitable design and measure are not in place. Hence, without any justification given by the applicant, the inclusion of ‘Pier’ use under Column 1 as proposed by the applicant is not supported.

Submission of a MLP and landscape proposal

- 11.3 A submission of a MLP and a landscape design proposal for the Board’s approval under s.16 of the Town Planning Ordinance is not required for “O” zone. The proposal made by the applicant is similar to the grounds of those representations, comments and FRs of the related amendment item on the draft OZP No. S/H10/18 which had been considered thoroughly by the Board in 2020. As mentioned in paragraph 4.2 above, the Board has agreed that further amendment to the OZP to incorporate the requirement of layout plan submission was considered not necessary for the “O” zone. Hence, the existing “O” zone of the Site is considered appropriate as it duly reflects the planning intention of the Site as open space for public enjoyment. Furthermore, the proposed Cyberport expansion project has already moved forward to the implementation stage for detail design and processing of land grant. Relevant lease condition would also be incorporated relating to the design and management of the Park. Given there is no change in planning circumstances since the approval of OZP on 15.1.2021, there is no reason to deviate from the Board’s previous decision.
- 11.4 Regarding the concern on the design and facilities to be provided, HKCMCL has committed that they will engage the nearby residents and stakeholders to collect their views on the design and facilities to be provided in the Park. According to HKCMCL, a community liaison group would be set up with close liaison with Southern District Council on Cyberport expansion project including the detailed design of the Park with enhancements.

Public Comments

- 11.5 Regarding the public comments received as stated in paragraph 10 above, the planning assessments in paragraphs 11.2 to 11.4 above and departmental comments in paragraph 9 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 comments mentioned in paragraph 10 above, the Planning Department

³ According to the Definition of Terms used in statutory plans, ‘pier’ means any structure built out over the water and supported by pillars or piles, used as a landing place for ferries, boats, ships and other vessels.

does not support the application for the following reason:

- (a) the “O” zone is considered appropriate to reflect the planning intention of the Site as public open space; and
- (b) there is no planning justification for the inclusion of ‘Pier’ use as a Column 1 use and for the incorporation of the submission of a master layout plan or a landscape design proposal in the Notes of the proposed “O(1)” zone.

12.2 Alternatively, should the Metro Planning Committee (the Committee) decide to agree or partially agree to the application, an amendment to the approved Pok Fu Lam OZP No. S/H10/19 will be submitted to the Committee for agreement prior to gazetting under section 5 of the Ordinance.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.

13.2 Should the Committee decide not to agree or to partially agree to the application, Members are invited to advise what reason(s) for the decision should be given to the application.

14. Attachments

Appendix I	Application form and supplementary information received on 18.3.2021
Appendices IIa to IIc	Public comments
Drawing Z-1	Location plan submitted by the applicant
Plan Z-1	Location plan for Applications No. Y/H10/10 to 12
Plan Z-2	Location plan
Plan Z-3	Site plan
Plan Z-4	Aerial photo
Plans Z-5 to Z-6	Site photos

**PLANNING DEPARTMENT
JUNE 2021**