

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MTL/5

<u>Applicant</u>	: Ma Tso Lung Eco Park Company Limited represented by Office for Fine Architecture Limited
<u>Site</u>	: Lots 1303 RP, 1304 RP, 1306, 1321 RP and 1322 RP in D.D. 96, Ma Tso Lung, New Territories
<u>Site Area</u>	: 1,183 m ²
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ma Tso Lung and Hoo Hok Wai Outline Zoning Plan (OZP) No. S/NE-MTL/3
<u>Zonings</u>	: “Agriculture” (“AGR”) (about 53.9%) “Conservation Area (1)” (“CA(1)”) (about 46.1%)
<u>Application</u>	: Proposed Temporary Holiday Camp and Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary holiday camp and shop and services for a period of 3 years at the application site (the Site) which falls within an area partly zoned “AGR” (about 53.9%) and partly zoned “CA(1)” (about 46.1%) on the OZP (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” and “CA(1)” zones requires planning permission from the Town Planning Board. The Site is currently covered with grass.
- 1.2 The Site comprises three pieces of land located on the western (Site A) and eastern (Sites B and C) sides of a local road (**Plan A-2**). The proposed development will provide 25 camping grounds with shared portable toilet facilities. There will be six single storey converted containers with a building height of 2.6m each and a total gross floor area of 89.3m² for shop and services at Site C, mainly selling local vegetables, flower fertilizers, plants, etc. (Layout Plan in **Drawing A-1**). Four portable toilets with a building height of 2.6m each are proposed at Site A, and another four at Site B. The proposed holiday camp will operate 24-hour daily accommodating a maximum of 100 campers. The shops within the Site will operate from 8:00 a.m. to 6:00 p.m. daily. There will be a total of 6 staff working at the Site. No car parking and loading/unloading space will be provided. The Site is accessible via a local road leading to Ma Tso Lung Road (**Plan A-2**).

1.3 In support of the application, the applicant has submitted the following documents:

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|-----|--|---------------|
| (a) | Application Form with received on 21.3.2022 | (Appendix I) |
| (b) | Supplementary Planning Statement (SPS) | (Appendix Ia) |
| (c) | Supplementary Information (SI) received on 25.3.2022 | (Appendix Ib) |
| (d) | Further Information (FI) received on 26.4.2022 | (Appendix Ic) |
| (e) | FI received on 4.5.2022 | (Appendix Id) |

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the SPS and FI at **Appendices Ia** and **Ic**, and are summarized as follows:

- (a) the proposed development is intended to promote environmental-friendly lifestyle, which can provide more opportunities for the public to keep in touch with nature and have a slow living lifestyle;
- (b) the proposed development is compatible with the surrounding rural environment. It can create synergy with the surrounding tourist attractions by providing recreational activities complementary to the natural scenic attractions;
- (c) the proposed development is in line with the “Northern Metropolis Development Strategy” as it attracts visitors to Ma Tso Lung;
- (d) only moveable structures and portable toilets will be used to reduce impact to the environment, hence adverse ecological and environmental impact to the environment and wetland is not anticipated; and
- (e) the proposed use will not generate heavy traffic, and the expected vehicular traffic and pedestrian flow generated by the visitors will be minimal. The nearest minibus stop is only 3-minute walk away from the Site. The visitors will be recommended to visit the Site by taking taxi or riding bicycle. As such, no car parking space or loading/unloading space is required.

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.31A) by obtaining owners’ consent. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) is relevant to this application. According to TPB PG-No. 12C, the western and eastern portions of the Site are zoned “CA(1)” (about 545m², 46.1% of the site area) and “AGR” (about 638m², 53.9% of the site area) falling within the Wetland Conservation Area (WCA) and Wetland Buffer Area (WBA) respectively (**Plans A-1** and **A-3**). Relevant extract of the Guidelines is at **Appendix II**.

5. Background

Part of the Site (i.e. Lots 1321 RP and 1322 RP) (**Plan A-2**) is subject to active planning enforcement action against unauthorised developments (“UDs”) involving tent camping ground/ fishing ground/ barbecue site/ eating place/ shop and services/ storage uses. Site inspection on 7.4.2022 revealed that the UD had been discontinued and the Site is under close monitoring.

6. Previous Application

There is no previous application covering the Site.

7. Similar Application

There is no similar application for the proposed uses within the “AGR” and “CA(1)” zones in the Ma Tso Lung area in the past five years on the OZP.

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

8.1 The Site is:

- (a) currently covered with grass;
- (b) located at the southern fringe of a large piece of wetland in Hoo Hok Wai area; and
- (c) accessible via a local road leading to Ma Tso Lung Road.

8.2 The surrounding areas are dominated by temporary domestic structures, fish ponds and woodland. A natural stream is located to the immediate south of Site A and north of Sites B and C (**Plan A-2**).

9. Planning Intentions

“AGR” zone

9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

“CA(1)” zone

9.2 The planning intention of the “CA(1)” zone is to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem at Hoo Hok Wai and the rest of the Deep Bay area. The “no-net-loss in wetland” principle is adopted for any change in use within this zone. The primary intention is to discourage new development unless it is required to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.
- 10.2 The following government departments have objection to / reservation on the application.

Traffic

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

- (a) he has reservation on the application from traffic engineering perspective;
- (b) having reviewed the FI (**Appendix Ic**) submitted, he considers that existing provision of public transport services to the Site and the applicant's suggestion to encourage visitors to access the Site by taxi or bicycle cannot guarantee that visitors would not drive to the Site and need parking and loading/unloading facilities; and
- (c) the vehicular access between the Site and Ma Tso Lung Road (Lo Wu Range) is not managed by Transport Department.

Landscape

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

- (a) she has some reservations on the application from landscape planning perspective;
- (b) the Site is covered with grass and some whip trees and trees of common species are observed along the boundary of Site A in the "CA(1)" zone. Two trees of common species in poor to fair conditions are located within Site C in the "AGR" zone, which may be in conflict with the proposed movable containers for shop and services. Nevertheless, significant impact on the landscape resources within the Site arising from the proposed development is not anticipated as the two trees within Site C are common species; and
- (c) the Site is located in an area of rural inland plains and miscellaneous rural fringe landscape character comprising residential dwellings and fish ponds in the west within the "CA(1)" zone, and woodland in the east and southeast within the "Green Belt" zone (**Plan A-2**). No similar application was approved by the TPB in the vicinity of the Site within the same "CA(1)" and "AGR" zones. The proposed use is considered not compatible with the landscape character within and surrounding the Site. There is concern that approval of the application may further

alter the landscape character and degrade the landscape quality of the “CA(1)” zone.

Agriculture, Conservation and Fish Culture

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

Agriculture

- (a) he does not support the application from agricultural point of view;
- (b) agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site possesses potential for agricultural rehabilitation and can be used for other agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc;

Conservation

- (c) the Site is located among the fish ponds at the southern edge of the large piece of wetland in Hoo Hok Wai area. The Site is primarily a lawn area with common ornamental and fruit trees on its periphery. A semi-natural stream with common fauna and flora species is running between the eastern and western portions of the Site. The proposed uses may cause disturbances to the surrounding wetland habitats and wildlife. An EcoIA is required to support the application in accordance with TPB PG-No. 12C; and

Fish Culture

- (d) as the Site is situated next to some neighbouring fish ponds, the applicant should clarify whether a fisheries impact assessment with recommendations on mitigation measures to limit any foreseeable impacts to these neighbouring fish ponds would be conducted for the proposed development.

District Officer's Comments

10.2.4 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. The Resident Representative (RR) of Ma Tso Lung (North) objects to the application mainly on the grounds that the proposed development would cause adverse traffic impact and threaten the safety of villagers. The Chairman of Sheung Shui District Rural Committee and the incumbent North District Councilor of N11 Constituency have no comment on the application. The Chairman of Fung Shui Area Committee did not reply.

11. Public Comments Received During Statutory Publication Period

- 11.1 On 1.4.2022, the application was published for public inspection. During the statutory public inspection period, a total of 8 public comments were received (**Appendix V**). Among them, 5 are objecting comments, 2 are supporting comments and one indicates no comment.
- 11.2 Two individuals support the application mainly on the consideration that the proposed development could provide more opportunities for the public to keep in touch with nature. A North District Council member indicates no comment on the application. The other five objecting comments are submitted by the Green Sense, the Conservancy Association, the Hong Kong Bird Watching Society, the Kadoorie Farm & Botanic Garden Corporation and an individual. The main grounds of objection include that the proposed development is not in line with the planning intention of “CA(1)” and “AGR” zones; lack of impact assessments on environmental, visual, sewerage and traffic; not comply with the “no-net-loss in wetland” principle under the TPB PG-No. 12C; the Site is subject to active enforcement action; it is a “destroy first, develop later” case; and approval of the application will set undesirable precedent to similar applications.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed temporary holiday camp and shop and services at the Site zoned “AGR” and “CA(1)” on the OZP. The planning intentions of the “AGR” and “CA(1)” zones are set out in paragraph 9 above. There is a general presumption against development within the “CA(1)” zone. In general, only development that are needed to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest may be permitted. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. The proposed development is considered not in line with the planning intentions of the “AGR” and “CA(1)” zones. There are no strong planning justifications in the submission for a departure from the planning intentions of the “AGR” and “CA(1)” zones, even on a temporary basis.
- 12.2 The Site is located at the southern fringe of a large piece of wetland in Hoo Hok Wai area (**Plans A-1 and A-3**). According to TPB PG-No. 12C, the Site falls partly within the WCA (i.e. about 46.1%) and partly within the WBA (i.e. about 53.9%). DAFC considers that the proposed development may cause disturbances to the surrounding wetland habitats and wildlife and the applicant has not submitted any EcoIA in support of the application in accordance with the TPB PG-No. 12C. There is insufficient information in the application to demonstrate that the proposed development would not affect the existing ecological functions of the wetland and fish ponds in Hoo Hok Wai, and hence the ecological integrity of the Deep Bay Area wetland ecosystem as a whole. In view of the above, the development is not in line with the TPB PG-No. 12C in that the applicant has failed to demonstrate in the submission that the “no-net-loss in wetland principle” is complied with.
- 12.3 The Site is situated in an area of rural inland plains and miscellaneous rural fringe landscape character comprising fish ponds, woodland and domestic structures. It is covered with grass and trees of common species are observed along the site boundary of Sites A and C (**Plan A-3**). While CTP/UD&L, PlanD advises that significant impact on the landscape resources arising from the proposed development is not anticipated, she has some reservations on the application from landscape planning point of view as the

proposed development is considered not compatible with the landscape character within and surrounding the Site. Approval of the application may further alter the landscape character and degrade the landscape quality of the area. The layout of the proposed development includes 3 pieces of land for camping ground and shop and services uses. They are separated by some private/government lands, local road, etc. without access connection with one another (**Drawing A-1**). There is no information to illustrate that the proposed development will not affect the adjoining lands. Noting that a maximum of about 100 campers may be accommodated at the Site at the same time, their activities on the camping grounds and in the surrounding areas may create a nuisance to the nearby villagers/residents. The applicant has failed to provide sufficient information in the submission to address such concerns.

- 12.4 C for T has reservation on application from traffic engineering perspective and considers that the existing provision of public transport services to the Site and the suggested use of taxi or bicycle to access the Site cannot guarantee that visitors would not drive and need parking and loading/unloading facilities. DAFC points out that the applicant should provide further information to clarify whether a fisheries impact assessment with recommendations on mitigation measures to limit any foreseeable impacts to the neighbouring fish ponds would be conducted for the proposed development. There is insufficient information in the submission to demonstrate that the proposed uses will not generate adverse traffic and fisheries impacts to the surrounding areas. Other relevant departments consulted, including D of FS, CE/MN of DSD, DEP, etc have no adverse comment on/ no objection to the application.
- 12.5 Regarding the local objection conveyed by DO(N) of HAD and the public comments as detailed in paragraphs 10.2.4 and 11 respectively, relevant government departments' comments and planning assessments are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local comments conveyed by DO(N), HAD in paragraph 10.2.4 and public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not line with the planning intentions of the "AGR" and "CA(1)" zones which are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem at Hoo Hok Wai and the rest of the Deep Bay area, respectively. There are no strong planning justifications in the submission for a departure from such planning intentions, even on a temporary basis;
 - (b) the proposed development is not in line with the TPB PG-No. 12C for 'Application for Development within Deep Bay Area' in that the applicant fails to demonstrate in the submission that the proposed development would not affect the existing ecological functions of the wetland and fish ponds in Hoo Hok Wai, and hence the ecological integrity of the Deep Bay Area wetland ecosystem as a whole; and

- (c) the applicant fails to demonstrate in the submission that the proposed development would not have adverse traffic, landscape, ecological and fisheries impacts on the surrounding areas.

13.2 Alternatively, 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 20.5.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m. for the shop and services use, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) submission of an ecological impact assessment and a fisheries impact assessment before commencement of works to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (c) implementation of the ecological and fisheries mitigation measures before commencement of works to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (d) 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 20.11.2022;
- (e) in relation to (d) above, the provision of drainage facilities 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 20.2.2023;
- (f) the submission of proposals for fire service installations and water supplies for firefighting 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 20.11.2022;
- (g) in relation to (f) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 20.2.2023;
- (h) submission of a traffic management proposal within 6 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 20.11.2022;
- (i) in relation to (h) above, the implementation of the traffic management proposal within 9 months to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 20.2.2023;
- (j) if planning condition (a) 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;

- (k) if any of the above planning condition (b) or (c) is not complied with before commencement of works, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning condition (d), (e), (f), (g), (h) or (i) 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
- (m) upon expiry of the planning permission, the reinstatement of the “CA(1)” portion of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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 period of which the permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form received on 21.3.2022
Appendix Ia	Supplementary Planning Statement
Appendix Ib	SI received on 25.3.2022
Appendix Ic	FI received on 26.4.2022
Appendix Id	FI received on 4.5.2022
Appendix II	Relevant Extract of TPB PG-No. 12C
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos