

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/291

<u>Applicant</u>	: Pac-Wealth Enterprises Limited represented by Gender Consultants Limited
<u>Site</u>	: Lot 859 in D.D. 216, 101 Tai Mong Tsai Road, Sai Kung, New Territories
<u>Site Area</u>	: About 618m ²
<u>Lease</u>	: New Grant Lot for private residential purpose
<u>Plan</u>	: Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
<u>Zoning</u>	: “Residential (Group C)2” (“R(C)2”) <i>[restricted to a maximum plot ratio (PR) of 0.5, a maximum site coverage (SC) of 25% and a maximum building height (BH) of 9m and 2 storeys over 1 storey of carport]</i>
<u>Application</u>	: Proposed Minor Relaxation of Site Coverage and Plot Ratio Restrictions for Permitted House Development

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed minor relaxation of SC and PR restrictions for a permitted house development at the application site (the Site), which falls within an area zoned “R(C)2” on the OZP subject to a maximum PR of 0.5, a maximum SC of 25% and a maximum BH of 9m and two storeys over one storey of carport (**Plan A-1**). According to the Notes of the OZP, ‘House’ is always permitted within the “R(C)2” zone. As the proposed scheme with a new sun deck has a PR of 0.558 and a SC of 32% which exceeds the relevant restrictions stipulated on the OZP, planning permission for minor relaxation is required from the Town Planning Board (the Board).
- 1.2 The Site situates on a sloping ground descending from the west (hillside) towards the east (road side which abuts the Tai Mong Tsai Road) (**Plan A-2**). It is currently occupied by a two-storey residential block (i.e. Level 1 and Level 2, total 8.65m in height) at the western part of the Site, and a separate one-storey carport and E&M facilities at Ground Level with a swimming pool and an existing sun deck on top (total 5.5m in height) at the eastern part of the Site (**Drawings A-3 to A-5**).

- 1.3 The applicant proposes to have a new triangular shaped sun deck¹ (44.152m²) along the eastern edge of the existing sun deck at Level 1 and project over the open area next to the pedestrian walkway of Tai Mong Tsai Road within the lot boundary for minimizing traffic noise from Tai Mong Tsai Road especially during the night time, while enlarging the existing open-air private recreational area of the residential development at the Site (**Drawing A-5**). A vertical clearance of 5.5m from the level of Tai Mong Tsai Road would be maintained. The major development parameters of the proposed scheme provided by the applicant are as follows:

Major Development Parameters	OZP Restrictions [a]	Existing Development	Proposed New Sun Deck	Proposed Scheme (with the proposed new sun deck) [b]	Difference [b] – [a]
Site Area	N.A.	618m ²			N.A.
PR	0.5	0.486	0.0714	0.558	0.058 (+12%)
Gross Floor Area (GFA)	N.A.	300.616m ²	44.152m ²	344.768m ²	N.A.
SC	25%	24.997%	7.144%	32.141%	7.141% (+29%)
BH	9m	Not exceeding 9m	N.A.	Not exceeding 9m	Same
No. of Storeys	2 storeys over 1 storey of carport	2 storeys and 1 storey carport	N.A.	2 storeys and 1 storey carport	Same

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

- (a) Application Form received on 22.11.2023 (Appendix I)
- (b) Further Information (FI) received on 3.1.2024 and 4.1.2024* (Appendix Ia)
- (c) FI received on 19.1.2024* (Appendix Ib)
- (d) FI received on 1.2.2024* (Appendix Ic)

**accepted and exempted from publication and recounting requirements*

- 1.5 On 12.1.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

¹ According to Buildings Department, the covered area underneath the proposed open sundeck on G/F should be counted towards non-domestic GFA under Building (Planning) Regulations.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Part 10 of the application form at **Appendix I** and FIs at **Appendices Ia to Ic**. They can be summarised as follows:

- (a) the existing house development is built with a setback from the boundary lot abutting Tai Mong Tsai Road taking into account Transport Department's comment suggesting a building setback for 60m visibility sightline for northbound traffic (5.5m(H) clearance) during building plan submission stage;
- (b) the proposed new sun deck is situated wholly within the private lot boundary;
- (c) the proposed new sun deck will minimize the traffic noise from Tai Mong Tsai Road especially during the night time, and enlarge the private recreational area;
- (d) the covered area at street level underneath the proposed new sun deck will be opened for use by the public; and
- (e) the applicant is committed to comply with relevant government policy, standards and guidelines, and agree to pay the prescribed premium for the proposed development.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. Previous Application

There is no previous application covering the Site.

5. Similar Application

There is no similar application on minor relaxation of PR and SC restrictions within the same "R(C)" zone on the OZP in the past five years.

6. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and photos on Plans A-4a and 4b)

- 6.1 The Site is abutting and accessible from Tai Mong Tsai Road. It is currently occupied by a residential development which has been set back from the eastern lot boundary by about 2.15m to 0.3m. The setback area is currently open for public access.
- 6.2 The Site is surrounded by heavily vegetated slopes zoned "Green Belt" to its remaining three sides. There are several scattered low-rise, low-density residential developments zoned "R(C)" in the vicinity along Tai Mong Tsai Road. To the further east of the Site across Tai Mong Tsai Road is Inner Port Shelter.

7. **Planning Intention**

- 7.1 The planning intention of “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 7.2 As set out in the Explanatory Statement of the OZP, there is a need to conserve the character of the residential developments and to control any incompatible developments of higher intensity in the planning area. To provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of the restrictions may be considered by the Board through the planning permission system. Each proposal will be considered on its individual planning merits.

8. **Comments from Relevant Government Departments**

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

Land Administration

- 8.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no objection to the application;
- (b) the Site consists of a private lot, namely Lot 859 in D.D. 216 (the Lot), having a site area of about 618m². The Lot is held under Conditions of Exchange dated 14.9.2015 registered in the Land Registry as New Grant No. 22194 for private residential purposes with the following development restrictions:-

Total GFA : Not be less than 185m² and not
(SC(II)(c)) exceed 309m²

Max. SC : 25%
(SC(II)(d))

Max. BH : 9m above the mean formation
(SC(II)(e)) level

Max. No. of Storey : 2 storeys over 1 storey carpark
(SC(II)(f)) (excluding any floor occupied solely by machinery or equipment for any lift, air-conditioning or heating system or any similar service)

- (c) the total GFA (344.768m²) and SC (32.141%) of the proposed development will exceed that permitted under the lease for the Lot as the proposed new sun deck could not be exempted from GFA

and SC calculation under lease; and

- (d) if the subject application is approved by the Board, the lot owner should apply for a lease modification for the Lot to effect the proposal. The land owner is reminded that every application submitted to LandsD will be considered on its own merits by LandsD at its absolute discretion acting in its capacity as a landlord and there is no guarantee that the lease modification application will eventually be approved by LandsD. If the application for lease modification is approved by LandsD, it will be subject to such terms and conditions as may be imposed by LandsD at its absolute discretion, including payment of premium and administrative fee.

Traffic

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

with the submission of the sight distance at the vehicular access of the house development, he has no objection to the subject planning application.

8.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

no comment on the application from highway maintenance point of view.

Building Matters

8.1.4 Comments of the Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department (CBS/NTE2&Rail, BD):

- (a) no objection to the application;
- (b) the open sundeck on Level 1 is not accountable for PR and SC calculations under Buildings Ordinance. However, its covered area on G/F would be considered as non-domestic in GFA and SC calculations; and
- (c) detailed comments are included in the advisory clauses at **Appendix II.**

Urban Design and Landscape

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

the proposed sun deck is only a building projection from the first floor of the existing building. Given that it is small in scale and does not protrude outside the lot, adverse visual impact caused by the proposed development in the locality is not anticipated.

Environment

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

- (a) he has no objection to the application; and
- (b) the proposed minor relaxation of SC and PR restrictions to develop a new deck for private recreation purpose will unlikely cause adverse environmental impact.

Drainage

8.1.7 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

he has no in-principle objection to the application from drainage viewpoint provided that adequate stormwater drainage collection and disposal facilities will be provided in connection with the proposed development to deal with the surface runoff of the Site or the same flowing onto the Site from the adjacent areas without causing any adverse drainage impact to the areas or nuisance to the adjoining areas.

Fire Safety

8.1.8 Comments of the Director of Fire Services (D of FS):

he has no comment on the application proposal subject to water supplies for firefighting and fire service installations being provided to the satisfaction of the D of FS. Detailed comments are included in the advisory clauses at **Appendix II**.

Geotechnical

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

she has no comment on the application. Based on the approved site formation plan of the Site, it is considered that a Geotechnical Planning Review Report in support of the application is not necessary.

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

- (a) Chief Engineer/Construction, Water Supplies Department (WSD);
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) District Officer/Sai Kung, Home Affairs Department (HAD); and
- (d) Chief Engineer (Works), HAD.

9. Public Comment Received During Statutory Publication Period

On 8.12.2023, the application was published for public inspection. No public comment was received during the statutory public inspection period.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed minor relaxation of SC and PR restrictions to facilitate a proposed sun deck of a permitted house development at the Site which falls within the “R(C)2” zone of the OZP subject to restrictions of maximum PR of 0.5, a maximum SC of 25% and a maximum BH of 9m and two storeys over one storey of carport. According to the Notes of the OZP, ‘House’ is always permitted within the “R(C)2” zone. Based on the individual merits of a development or redevelopment proposal, minor relaxation of the PR/SC/BH restrictions may be considered by the Board on application under section 16 of the Town Planning Ordinance.
- 10.2 The existing residential development at the Site has a PR of 0.486, SC of 24.997% and BH not exceeding 9m (22.4mPD) and two storeys and one storey of carport. The applicant proposes to have a new sun deck for minimizing traffic noise from Tai Mong Tsai Road especially during the night time, while enlarging the existing open-air private recreational area of the residential development at the Site. The proposed new sun deck (44.152m²) will be extended from the eastern edge of the existing sun deck at Level 1 which will result in an increased PR from 0.5 to 0.558 (+12%) and an increased SC from 25% to 32.141% (+29%). The applicant has submitted a submission of the sight distance at the vehicular access of the house development in support of the application. In this regard, C for T has no objection to the application.
- 10.3 While the proposed new sun deck is confined within the Site and would not encroach upon Tai Mong Tsai Road, the applicant further states that the open area underneath the proposed new sun deck would continue to be open for use by the public. The proposed new sun deck is minor in scale (44.152m²) and is entirely within the private lot. The additional GFA and SC arising from the proposed new sun deck (i.e. the covered area on the Ground Level) would not result in any actual increase in the intensity of the residential development and the low-rise and low-density character of the residential development in the area would be maintained. CTP/UD&L, PlanD considers that as the proposed new sun deck is small in scale and does not protrude outside the Site, therefore, adverse visual impact caused by the proposed development in the locality is not anticipated.
- 10.4 There is no adverse comment on the application from concerned government departments including CHE/NTE, HyD, DEP, CE/MS, DSD, CE/Construction, WSD, D of FS and H(GEO), CEDD. Adverse traffic, environmental, sewerage, drainage, water supplies, fire safety and geotechnical impacts on the surrounding area are not envisaged.

11. Planning Department’s Views

- 11.1 Based on the assessments 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 15.3.2028 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 recommended advisory clauses

are attached at **Appendix II**.

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The applicant fails to provide strong planning justifications for the proposed minor relaxation of plot ratio and site coverage restrictions.

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 of the 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

Appendix I	Application form dated 22.11.2023
Appendix Ia	FI received on 3.1.2024 and 4.1.2024
Appendix Ib	FI received on 19.1.2024
Appendix Ic	FI received on 1.2.2024
Appendix II	Recommended Advisory Clauses
Drawing A-1	Extract of Level 1 Plan of the Existing House Development and Development Parameters
Drawing A-2	Extract of Level 1 Plan of the House Development with the Proposed New Sun Deck and Development Parameters
Drawing A-3	Ground Floor Plan of the Proposed Development
Drawing A-4	Level 1 and Level 2 Plans of the Proposed Development
Drawing A-5	Section of the House Development with the Proposed New Sun Deck
Drawing A-6	Side Elevation of the House Development with the Proposed New Sun Deck
Drawing A-7	Front Elevation of the House Development with the Proposed New Sun Deck
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos