

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/592

- Applicant** : Tim Po Fishery and Agriculture Limited represented by Goldrich Planners and Surveyors Limited
- Site** : Lots 788 (Part), 790 (Part), 793, 794 and 801 RP in D.D. 381 and Adjoining Government Land (GL), Tuen Mun, New Territories
- Site Area** : About 4,009m² (including GL of about 497m² or 12.4%)
- Lease** : Block Government Lease (demised for agricultural purpose)
- Plan** : Draft Tuen Mun Outline Zoning Plan (OZP) No. S/TM/40 currently in force

Draft Tuen Mun OZP No. S/TM/38 at the time of submission
(The zoning and development restrictions for the application site (the Site) remain unchanged on the current OZP)
- Zonings** : (i) “Open Space” (about 3,600m², 89.8%)
(ii) “Government, Institution or Community” (about 409m², 10.2%)
[Restricted to a maximum building height of 6 storeys]
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Barbecue Area) and Holiday Camp (Private Tent Camping Ground) for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary place of recreation, sports or culture (barbecue area) and holiday camp (private tent camping ground) for a period of six years at the Site (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ and ‘Holiday Camp’ are Column 2 uses in the “O” zone, which require planning permission from the Town Planning Board (the Board) whilst for the “G/IC” zone, ‘Place of Recreation, Sports or Culture’ is a Column 1 use which is always permitted and ‘Holiday Camp’ is a Column 2 use which requires planning permission from the Board.
- 1.2 The Site is bisected into two portions by a nullah (**Plan A-2**). The western portion falls entirely within the “O” zone is currently used as a barbecue area with temporary structures, while the eastern portion is partly zoned “O” and partly zoned “G/IC” and is used for parking of vehicles. Both uses are without valid planning permissions (**Plans A-2, A-4a and A-4b**).

1.3 According to the applicant, the proposed barbecue and tent camping activities will be confined to the western portion of the Site and the eastern portion will be only used for loading/unloading (L/UL) purpose to support the operation. There will be 17 single-storey temporary structures (3.5m to 6m in height) in the western portion with a total floor area of 776m² for office, service counter, staff pantry, storage, function room, open shed and toilet uses (**Drawing A-1**). A maximum number of 10 tents for 40 visitors will be set up per day. One L/UL space for light goods vehicle and vehicular maneuvering space will be provided in the eastern portion. The Site is connected with Castle Peak Road - Tai Lam via staircases for pedestrian access and via Ching Lai Road for vehicular access. Visitors are encouraged to take public transport to the Site as no car parking space is provided. As shown in the Landscape Proposal, six trees and some potted plants will be planted/placed at the Site along its western, northern and north-eastern boundaries (**Drawing A-2**). For sewage treatment, replaceable waste tank portable toilets are proposed and regular waste disposal services will be arranged once every two weeks. Operation hours of the proposed uses are 24-hours daily. To minimise potential nuisance to the surrounding areas, barbecue activity will be suspended and the main lights will be switched off after 11:00 p.m. each day. Besides, the use of public announcement system or any form of audio amplification systems are prohibited at the Site. The layout plan and landscape proposal submitted by the applicant are shown in **Drawings A-1 and A-2** respectively.

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

- (a) Application Form received on 15.4.2024 (**Appendix I**)
- (b) Consolidated Report received on 15.11.2024 (**Appendix Ia**)

(Further Information (FI) received on 17.6.2024[#], 23.7.2024, 3.10.2024[#] and 7.11.2024[#]) were superseded and not attached.

[#]accepted and exempted from publication and recounting requirements

1.5 On 7.6.2024 and 20.9.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months each as requested by the applicant.

2. Justifications from the Applicant

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

- (a) the proposed uses are in line with the planning intention of the “O” zone in 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. The use for vehicular access and L/UL space at the eastern portion would not jeopardise the planning intention of the “G/IC” zone;

- (b) the proposed uses are compatible with the surrounding uses which comprise mainly open areas and low-rise houses;
- (c) no adverse traffic, landscape, geotechnical, drainage and sewerage impacts are anticipated; and
- (d) the proposed uses would provide employment opportunities for the locals.

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. 31B) by posting site notice and sending registered post to the Tuen Mun Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No.31B are not applicable.

4. Previous Application

The Site is not the subject of any previous application.

5. Similar Application

There is no similar application within the same “O” or “G/IC” zones on the OZP.

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

6.1 The Site:

- (a) is bisected into two portions by a nullah. The western portion is used as barbeque area with temporary structures and the eastern portion is used for parking of vehicles, both without valid planning permission;
- (b) is accessible from Castle Peak Road – Tai Lam via staircases for pedestrian access and via Ching Lai Road for vehicular access; and
- (c) largely falls within the Siu Lam Site of Archaeological Interest.

6.2 The surrounding areas are predominantly urban fringe in character with mainly vegetated land, parking of vehicles, vacant/unused land and low-to-medium rise residential dwellings.

7. Planning Intention

- 7.1 The planning intention of the “O” zone 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.
- 7.2 The planning intention of the “G/IC” zone is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.
- 7.3 The “G/IC” zone has not been designated for any GIC use.

8. Comments from Relevant Government Departments

- 8.1 Apart from the government department as set out in paragraph 8.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided at **Appendices II and III** respectively.
- 8.2 The following government department objects to the application:

Lands Administration

- 8.2.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) the Site comprises Old Schedule Agricultural Lots, i.e. Lots 788 (Portion), 790 (Portion), 793, 794 and 801 R.P. all in D.D. 381 (the Lots) and adjoining GL (about 497m² subject to verification). The Lots were 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) there are unauthorised structures within the Site. Site inspections conducted on 27.6.2024, 31.7.2024, 14.10.2024 and 11.11.2024 revealed that there were unauthorised structures such as tents, porches, wooden gate, some advertising stands mounted on the railings, some stands with lights fixed to the ground along the staircase leading to the Site, a wheeled advertising board, a footbridge mounted with wheels and skids found on Lot No. 794 in D.D.381 identified and/or remained intact and/or were repeatedly erected and are not covered by the application. Moreover, there were discrepancies between the build over area (BOA) of the unauthorised structures covered by the application as shown on **Drawing A-2** (i.e. Structure nos. 4 to 10 & 13 to 17) and his on-site measurement of 11.11.2024. The lot owner(s) should immediately rectify/regularise the lease breaches and his office reserves the rights to take necessary lease enforcement actions against the breaches without further notice. In addition, any occupation of GL without Government’s prior approval is an offence under Cap. 28. His

office reserves the rights to take necessary land control action against the unlawful occupation of GL without further notice;

- (c) as regards the unauthorised structures not covered by the application, the lot owner(s)/applicant shall either (i) remove the unauthorised structures not covered by the application immediately; or (ii) include the unauthorised structures in the application for the further consideration by the relevant departments and subject to the approval of the Board to the application which shall have reflected the rectification or amendment as aforesaid required, the lot owner(s) shall apply to his office for an Short Term Waiver (STW) and Short Term Tenancy (STT) to permit the structures erected and the occupation of the GL. The applications for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate to be imposed by LandsD. LandsD reserves the right to take enforcement action against the lot owner(s)/applicant for any breach of the lease conditions, including the breach(es) already in existence or to be detected at any point of time in future subject to lease enforcement actions according to case priority and land control action for any unlawful occupation of GL;
- (d) unless and until the unauthorised structures are duly rectified by the lot owner(s)/applicant or entirely included the application, he objects to the application and the applicant is required to immediately cease the unlawful occupation of GL by removing the footbridge and rectify the lease breaches by either demolishing unauthorised structures not covered by the application or including all unauthorised structures erected on the Lots in the application tallying with the layout plan submitted by the applicant for consideration;
- (e) according to Land Registry Records, the applicant is not the current owner of the Lots. The proposed L/UL space for LGVs is within Lot 790 in D.D. 381 which is accessible via Lot 788 in D.D. 381 and adjoining GL leading from Ching Lai Road as proposed by the applicant. Nonetheless, Lot 790 in D.D. 381 is sandwiched between adjacent Lots 788 and 789 in D.D. 381 and Lot 240 in D.D. 384 and they are not under the same ownership of Lots 790, 793, 794 and 801 RP in D.D. 381. Hence, the requirement for provision of a L/UL space for LGVs in Lot 790 in D.D. 381 via Lot 788 in D.D. 381 or adjoining private lots may not be feasible and cannot be written into the land documents to give effect to this proposal should planning permission be given;
- (f) the western portion of the Site is accessible via an existing staircase branching off from the pavement of Castle Peak Road while the eastern portion of the Site is accessible via a strip of GL leading from Ching Lai Road. His office does not carry out maintenance works for the said staircase and road nor guarantee that any right-of-way to the

Site will be given. The lot owner(s)/applicant shall be responsible for his own arrangement;

- (g) for a better utilisation of the GL adjoining the Site, it is emphasised that there is no guarantee that the STT would cover the GL within the Site; and
- (h) he reserves the right to take lease enforcement actions as considered appropriate against any unauthorised erection/extensions/alternations of the structures erected or to be erected within the Lots and land control action for any unlawful occupation of GL at any time irrespective of whether planning permission will be given or not. Enforcement action will be taken should any structure or structures be found erected without prior approval given by his office or be in breach of the approval given.

9. Public Comments Received During the Statutory Publication Periods

On 23.4.2024 and 30.7.2024, the application was published for public inspection. During the statutory public inspection periods, seven comments from individuals were received (**Appendices IV-1 to IV-7**). They objected to the application mainly on the grounds that the proposed uses would restrict the public from entering the Siu Lam Beach¹ to the south of the Site (**Plans A-2 and A-3**); causing adverse traffic, sewerage, noise, and odour impacts; there are illegal structures at the western portion and the eastern portion is suspected for parking of vehicles without planning permission; and questioned the validity period of six years as applied by the applicant.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed temporary place of recreation, sports or culture (barbecue area) and holiday camp (private tent camping ground) for a period of six years at the Site zoned “O” and “G/IC” on the OZP. According to the applicant, the proposed uses will be confined to the western portion zoned “O” whilst the eastern portion partly encroaches on “G/IC” will only for L/UL and maneuvering purposes. Although the proposed uses are not entirely in line with the planning intentions of the “O” and “G/IC” zones, there is no known programme for long-term development at the Site. The proposed uses can provide a recreation outlet to serve the general public in the interim. Approval of the application on a temporary basis for a period of six years would not jeopardise the long-term planning intentions of the “O” and “G/IC” zones.
- 10.2 The proposed uses, with 17 single-storey temporary structures with heights ranging from 3.5m to 6m, are generally not incompatible with the surrounding environment which is predominantly urban fringe in character with mainly vegetated land, parking of vehicles, vacant/unused land and low-to-medium rise residential dwellings (**Plans A-2 and A-3**). The Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application

¹ Siu Lam Beach is not a gazetted beach under Leisure and Cultural Services Department’s management.

from landscape planning perspective as new tree and shrub plantings are proposed within the Site for screening purpose.

- 10.3 There is no adverse comment from concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North of Drainage Services Department from traffic, environmental, fire safety, drainage and sewerage perspectives. Relevant approval conditions are recommended in paragraph 11.2 below to address the technical requirements of concerned government departments.
- 10.4 Regarding DLO/TM, LandsD's concerns on the unauthorised structures erected within the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 10.5 There are seven public comments objecting to the application as summarised in paragraph 9 above. Regarding public access to Siu Lam Beach, majority part of the Site is under private ownership and there is alternative access to the beach located to the east of the Site. For the other comments, the planning considerations and assessments in paragraphs 10.1 to 10.3 above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9 above, 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 on a temporary basis for a period of six years until 22.11.2030. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.5.2025;
- (b) in relation to (a) above, the implementation of the revised drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.8.2025;
- (c) in relation to (b) above, the implemented drainage facilities at the site shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.5.2025;

- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.8.2025;
- (f) if the above planning condition (c) 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; and
- (g) if any of the above planning condition (a), (b), (d) or (e) 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.

Advisory clauses

The recommended advisory clauses are 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 applied uses are not in line with the planning intention of the "O" and "G/IC" zones, which are mainly intended 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; and for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 period of which the permission should be valid on a temporary basis.
- 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 received on 15.4.2024
Appendix Ia	Consolidated Report received on 15.11.2024
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendices IV-1 to IV-7	Public Comments
Drawing A-1	Layout Plan

Drawing A-2	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2024**