

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/412

- Applicant** : Tree Climbing Hong Kong Limited (TCHK) represented by Metro Planning & Development Company Limited
- Site** : Lots 316 (Part), 317 S.A (Part), 317 RP (Part), 318 and 319 (Part) in D.D.129 and adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,080m² (including GL of about 330m² or 15.9%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/10
- Zoning** : “Green Belt” (“GB”)
- Application** : Temporary Training Centre (Tree Care Training Centre) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary training centre (tree care training centre) for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “GB” on the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/10. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. Besides, filling of land within the “GB” zone requires planning permission from the Board. The Site is not involved in any previous planning application. It is currently partly hard-paved with bricks, and partly covered with soil and vegetation. Some temporary structures being used as classrooms are observed. The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 to A-4c**).
- 1.2 The Site is accessible from Deep Bay Road via a local track (**Drawing A-2**). As shown on the layout plan at **Drawing A-1**, the proposal comprises 7 structures of 1 storey (3m to 12m) high, with a total floor area of not more than 580m² for classrooms, tree climbing simulation area, store room for personal protection equipment, guard room and electricity meter room. 3 parking spaces for private cars

are provided.

- 1.3 According to the applicant, the applied development is for training ground that offers courses on tree climbing and tree care training. All the existing trees will be preserved. For tree climbing training, measures such as using lanyard and braided sling with metal rings instead of traditional climbing ropes will be adopted to avoid damaging the tree bark. For tree care training, dieback twigs, decayed branches, hangers and/or broken branches of the existing trees will be pruned, while cut logs supplied from gardening companies will be transported to the Site for the purpose of training of cutting. The operation hours are between 9 a.m. to 7 p.m. daily (including public holidays). A maximum of 18 people would be accommodated at the same time. The site layout, vehicular access plan, land filled area plan and drainage plan are at **Drawings A-1** to **A-4** respectively.
- 1.4 Besides, an area of about 170m² or 8.2% of the Site has been hard-paved with bricks of about 0.1m in thickness for stabilising the temporary structures. No additional filling of land will be carried out at the Site. A layout plan of the land filled area is at **Drawing A-3**.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with annexes and plans received on 3.11.2021 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 11.11.2021 (**Appendix Ia**)
 - (c) SI received on 15.11.2021 (**Appendix Ib**)
 - (d) SI received on 16.11.2021 (**Appendix Ic**)

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**. They can be summarised as follows:

- (a) The Site is currently occupied by Tree Climbing Hong Kong Limited (TCHK), which is a society registered under the Societies Ordinance, and a qualified training institution accredited by the Education Bureau. The Site is being used as a training ground of TCHK for tree climbing and caring.
- (b) The Site is far from residential settlement. The operation and training activities thereat would not affect nearby residents.
- (c) The nature, layout and form of the applied development is not incompatible with the surrounding environment.
- (d) The applied development would not affect existing trees or other natural features. Its impact on the surrounding environment is minimal. The applicant is also sincere to maintain the Site free from drainage, traffic and landscape problems.
- (e) Suitable location for tree climbing and tree care training is hard to find, except in vegetated areas which would normally be zoned "GB". Another tree care training

centre operated by TCHK falls within the “Coastal Protection Area” (“CPA”) zone at Ha Tsuen Fringe¹.

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 posting site notice and sending notification letter to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

4.1 Town Planning Board Guidelines for “Application for Development within the Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are summarised as follows and detailed at **Appendix II**.

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone;
- (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. It should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area; and

¹ An application (No. A/YL-HTF/1102) for the same temporary use by the same occupant (i.e. TCHK) at the “Coastal Protection Area” zone of the Ha Tsuen Fringe OZP was approved with conditions on 26.5.2020 on considerations that the existing trees will be preserved and no land filling will be carried out, not incompatible with the surrounding areas, and no adverse departmental comments.

- (g) any proposed development on a slope or hillside should not adversely affect slope stability.
- 4.2 According to Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows and detailed at **Appendix III**.
- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
 - (b) within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment (EcoIA) would also need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

The training centre use at the Site would be subject to planning enforcement action.

6. Previous Application

The Site is not involved in any previous planning application.

7. Similar Application

There is no similar application within the same “GB” zone on the OZP.

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

8.1 The Site is:

- (a) situated on the foothill of a knoll that descends from the west to the east. The Site is terraced into mainly two levels, i.e. the northwest and southwest portion at about 19mPD, and the eastern portion at about 13mPD;
- (b) fenced off, partly paved with bricks and partly covered with soil and vegetation. Some temporary structures being used as classrooms are observed. The Site is being used for the applied use without valid planning permission; and
- (c) located to the south of Deep Bay Road, and is accessible via a track on GL branching off Deep Bay Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the north are woodland and fallow agricultural land;
- (b) to the east are woodland and fallow agricultural land. To the further east are the mangroves falling within the Inner Deep Bay Site of Special Scientific Interest (SSSI);
- (c) to the south and southwest are woodland intermixed with graves and burial urns, which fall within the Tsim Bei Tsui Egrettry SSSI; and
- (d) to the west are woodland intermixed with graves.

9. Planning Intention

- 9.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.2 As filling of land/pond or excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs) and GL. The OSALs are 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) No permission is given for occupation of the GL included in the Site (about 330m² subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.
- (c) It is noted from applicant’s submission that the Site is currently occupied by the applicant. With reference to aerial photo in 2017 (**Plan A-3c**), such illegal occupation was commenced after 28.3.2017. According to our prevailing policy, application for regularization by way of Short Term Tenancy (STT) on the concerned GL will not be entertained, even if the planning application is approved by the Board. Besides, it is noted that there will be ingress/egress on part of the GL

in the Site (about 53m²) connecting Deep Bay Road, local track and the Site. There is no guarantee that a right-of-way over GL will be granted. In addition, according to the established practice, application of STT for the purpose of ingress/egress on GL will not be entertained, even if the planning application is approved by the Board.

- (d) Should planning approval be given to the subject planning application, the lot owner(s) of the lots will need to immediately apply to his office for permitting the structures to be erected or to regularise any irregularities on site, if any. The applicant has to either exclude the GL from the Site or immediately apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.
- (e) His office has no comment from aspect of tree management on GL of the Site.

Traffic

10.1.2 Comments of Commissioner for Transport (C for T):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under the Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (b) The access road connecting the Site with Deep Bay Road is not and will not be maintained by his office. His office should not be responsible for maintaining any access connecting the Site and Deep Bay Road.

Environment

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

- (a) He has no objection to the application as the proposed development does not involve operation of heavy vehicles nor dusty operation.
- (b) There is no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the application be approved, the applicant should be reminded of the detailed comments at **Appendix V**.

Nature Conservation

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

- (a) The vegetation on the Site are mainly common species and no fauna species of conservation importance are found. It is noted that the applicant will preserve all the trees at the Site.
- (b) There is no wetlands within the Site. Although the Site is close to Tsim Bei Tsui Egrettry SSSI, given the nature of the applied use, he has no comment on the application.

Landscaping

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

- (a) She has reservation on the application from landscape planning perspective.
- (b) The Site is partly paved with existing temporary structures at the central portion of the Site, and partly bare soil without any vegetation at northwestern portion of the Site. There are some existing trees of common species, including *Litchi sinensis* (荔枝), *Ficus microcarpa* (細葉榕), *Ficus virens* (大葉榕) and *Roysonia regia* (王棕) along the boundary within the Site. The landscape character surrounding the Site is rural coastal plains predominated by woodland, scrubland, ponds, and disturbed by temporary structures and open storages. It is noted that some open storages and temporary structures nearby the Site are suspected unauthorized developments subject to enforcement action.
- (c) When comparing the site condition through the aerial photos between 2017 and 2021 (**Plans A-3a to A-3c**), vegetation clearance and extensive site formation works was found at the northwestern and central parts within the Site. In view that the “GB” zone is intended to promote the conservation of the natural environment, the proposed development is considered incompatible with surrounding rural

coastal plains landscape character. Moreover, there is no similar application for the training centre uses previously approved in the same “GB” zone, there is concern that approval of the planning application may encourage other similar applications in the “GB” zone to obtain planning permission.

Drainage

10.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.
- (c) The applicant should be reminded of the detailed comments on the submitted drainage proposal at **Appendix V**.

Fire Safety

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

- (a) Recent inspection by his department revealed that the distance of the Site from the nearest available street fire hydrant is more than 500m. As such, he has no objection in principle to the proposal subject to water supply for firefighting, i.e. fire hydrant system with adequate flow and pressure at a location that is within 500m from the Site, and fire service installations being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, water supply for firefighting and FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed water supply for firefighting and FSIs to his department for approval. The applicant should note his detailed comments on the submission of FSIs proposal at **Appendix V**.

Building Matters

10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use under application.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Others

10.1.10 Comments of the Qualifications Framework Section, Education Bureau (QFS, EDB):

The Tree Climbing Hong Kong operates 4 learning programmes² recognised under the Qualifications Framework and registered on the Qualifications Register.

District Officer's Comments

10.1.11 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any feedback from locals.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (c) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (d) Project Manager (West), CEDD (PM(W), CEDD); and
- (e) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 19.11.2021, the application was published for public inspection. During the statutory public inspection period, 2 public comments from the Kadoorie Farm and Botanic Garden and an individual (**Appendices IV-1 and IV-2**) were received requesting for clarification on whether filling of land is required, and whether the use currently on-site requires planning permission from the Board; and concerning the applicant's failure to fulfill the approval conditions in another similar application in Ha Tsuen Fringe.

12. Planning Considerations and Assessments

12.1 The application is for temporary training centre (tree care training centre) for a period of 3 years and filling of land. The Site falls within the "GB" zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Moreover, filling of land within the "GB" zone requires planning permission from the Board as it may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. According to the applicant, all the trees on-site will be preserved. Measures are also taken to prevent damage of trees due to the tree climbing training activities. Apart from the current brick paving of about 170m² (or 8.2% of the Site) and

² The 4 recognised learning programmes include (1) Certificate in Integrated Tree Climbing; (2) Certificate in Occupational Safety and Health for Arboriculture & Horticulture Industry; (3) Certificate in Petrol Chainsaw Use and Maintenance and Tree Trimming; and (4) Certificate in Practical Tree Rigging Skills.

about 0.1m in thickness, no further filling of land will be undertaken. In this regard, DAFC has no adverse comment on the application from nature conservation point of view. Besides, CE/MN of DSD has no objection to the applied development, including the filling of land, from drainage perspective. In view of the above, whilst the applied development is not in line with the planning intention of the “GB” zone, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “GB” zone.

- 12.2 As stated in TPB-PG No. 10, the design and layout of any proposed development falling within “GB” zone should be compatible with the surrounding area. The Site is situated in an area rural in character and predominated by woodland intermixed with agricultural land and graves. To the south of the Site is the Tsim Bei Tsui Egrettry SSSI. In this regard, CTP/UD&L of PlanD has reservation on the application as the applied development may be incompatible with the surrounding rural coastal plains landscape character. However, DAFC advises that the vegetation on-site are mainly common species and no fauna species of conservation importance were found. Considering the nature of the applied development as mentioned in paragraph 12.1 above, although the Site is close to the Tsim Bei Tsui Egrettry SSSI, he has no adverse comment on the application from nature conservation perspective. In view of the above, the applied development which does not involve tree felling is considered not entirely incompatible with the surrounding area, and hence not contravening TPB PG-No. 10.
- 12.3 Although the Site falls within the WBA of TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no adverse comment on the application, and there is no wetland within the Site. As such, the application is considered not in contravention with TPB PG-No. 12C.
- 12.4 Other concerned departments including C for T, DEP, H(GEO) of CEDD and D of FS have no objection to or no comment on the applied development from traffic, environmental, geotechnical and fire safety perspectives. To minimise any potential environmental nuisances and address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on-site would be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 12.5 There is no previous application at the Site nor similar application in the same “GB” zone.
- 12.6 2 public comments were received objecting to/requesting for clarification on the application as stated in paragraph 10 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the temporary training centre (tree care training centre) for a period of 3 years with filling of land could be tolerated.
- 13.2 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 3 years until **24.12.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 7:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (c) no additional land filling, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) the submission of a revised 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 **24.6.2022**;
- (e) in relation to (d) above, the implementation of the revised drainage proposal 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 **24.9.2022**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of water supplies for firefighting and 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 **24.6.2022**;
- (h) in relation to condition (g) above, the provision of water supplies for firefighting and fire service installations 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 **24.9.2022**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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;
- (j) if any of the above planning conditions (d), (e), (g) or (h) is not complied with by the above specified date, the approval hereby given shall cease to have

effect and shall on the same date be revoked without further notice; and

- (k) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied development is not in line with the planning intention of the "GB" zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) approval of the application would set an undesirable precedent for similar applications within the "GB" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse the planning permission.
- 14.2 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 permission should be valid on a temporary basis.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 3.11.2021
Appendix Ia	Supplementary Information received on 11.11.2021
Appendix Ib	Supplementary Information received on 15.11.2021
Appendix Ic	Supplementary Information received on 16.11.2021
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Extracts of Town Planning Board Guidelines for Application for Development within Deep Bay Area (TPB PG-No. 12C)
Appendices IV-1 and IV-2	Public Comments Received During Statutory Publication Period
Appendix V	Advisory Clauses

Drawing A-1	Layout Plan
Drawing A-2	Access Plan
Drawing A-3	Layout Plan of the Land Filled Area
Drawing A-4	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3c	Aerial Photos taken in 2021, 2019 and 2017
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**