

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/496

- Applicant** : Mr. Tang Sing Young represented by Mr. Wong Sun Wo William
- Site** : Lots 1442 and 1446 in D.D. 129, Mong Tseng Wai, Yuen Long, New Territories
- Site Area** : About 807m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Filling of Pond and Filling of Land for Permitted House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed filling of pond and filling of land for one permitted house (NTEH - Small House) at the application site (the Site) (**Plan A-1**). According to the Notes for the “V” zone of the OZP, while ‘House (NTEH only)’ development is always permitted, filling of pond and filling of land require planning permission from the Town Planning Board (the Board). The Site also falls within the Wetland Buffer Area (WBA) according to the Town Planning Board Guidelines No. 12C for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C). Majority of the Site forms part of a larger pond overgrown with vegetation (hereafter ‘pond portion’), whilst the southernmost portion is land covered with vegetation (hereafter ‘land portion’) (**Plans A-2 and A-4**).
- 1.2 As shown on the proposed pond and land filling plan at **Drawing A-1**, the pond portion (about 730m² or 90.5%) would be filled with soil and hard paving of about 1m to 2m in depth (including hard paving of 0.15m in depth on the top), whilst the land portion (about 77m² or 9.5%) would be filled with soil and hard paving of about 0.5m to 1m in depth (including hard paving of 0.15m in depth on the top). As a result of the proposed pond and land filling works, the formation level of the Site would be raised to about +4mPD (both the pond and land portions).

- 1.3 As shown at **Drawing A-2**, the proposed pond and land filling is to facilitate the erection of one NTEH at the northern portion of the Site. Drainage facilities would be provided at the Site upon completion of the proposed pond and land filling works (**Drawings A-4**). No ecological impact assessment (EcoIA) or drainage impact assessment (DIA) is submitted in support of the proposed filling of pond and land.
- 1.4 As indicated in the submission, the construction vehicles would access the Site from the south via a local track branching off Tin Yuet Road (**Drawing A-3**, and **Plans A-2 and A-3a**). There would be about 14 dump trucks trips generated per day¹ during the one-month construction period.
- 1.5 The Site forms part of a previous application (No. A/YL-LFS/463) for the same proposed development, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 5.5.2023 (details at paragraph 6 below). Compared to the previous application, the current application is submitted by one of the applicants of the previous application for the same proposed development, with smaller site area (-1,510m² or -65.2%), lower proposed site formation level (-0.3m or -7.0%), and fewer Small Houses proposed thereon (-7 or -87.5%).

	Previous Application No. A/YL-LFS/463 (a)	Current Application No. A/YL-LFS/496 (b)	Difference (b) - (a)
Site Area	about 2,317m ²	about 807m ²	-1,510m ² (-65.2%)
Applied Development	Proposed Filling of Pond and Filling of Land for Permitted House(s) (NTEH - Small House(s))		No change
Depth of Pond Filling	2m	1m to 2m	Minimum -1m (-50%)
Depth of Land Filling	1m	0.5m to 1m	Minimum -0.5m (-50%)
Proposed Site Formation Level	+4.3mPD	+4mPD	-0.3m (-7.0%)
Fill Materials	Soil	Soil with concrete on the top	Addition of concrete
No. of NTEH to be Erected	8	1	-7 (-87.5%)

- 1.6 In support of the application, the applicant has submitted the Application Form which was received on 13.10.2023 (**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**. They can be summarised as follows:

- (a) to minimise the negative off-site disturbance impact on migratory birds, construction works would be suspended from December to February, i.e. the high seasons of migratory birds coming to Hong Kong;
- (b) no construction waste but soil from excavated land and slopes would be used for the proposed pond and land filling works; and

¹ Except Sundays and public holidays.

- (c) should the application be approved, professional surveyors would be appointed to confirm the lot boundaries to the satisfaction of the Lands Department (LandsD) or the Board before commencement of the pond and land filling works.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is one of the “current land owners” of the Site. In respect of the other “current land owner”, the applicants have 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 obtaining consent from the registered land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

According to TPB PG-No. 12C, the Site falls within the WBA. The relevant assessment criteria are detailed at **Appendix II** and summarised as follows:

- (a) in considering development proposals in the Deep Bay Area, the Board adopts the principle of “no-net-loss in wetland” which provides for the conservation of continuous and adjoining fishponds. The “no-net-loss” can refer to both loss in “area” and “function”. No decline in wetland or ecological functions served by the existing fish ponds should occur. As the fish ponds form an integral part of the Deep Bay Area wetland ecosystem, alternative uses could be considered suitable only if it could be demonstrated that they would not result in the loss of ecological function of the original ponds and if they complement the ecological functions of the wetlands and fishponds in and/or around the Deep Bay Area;
- (b) 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
- (c) within the WBA, for development or redevelopment which requires planning permission from the Board, an EcoIA would also need to be submitted. Development/redevelopment which may have negative impacts on the ecological value of the WCA would not be supported by the Board, unless the EcoIA can demonstrate that the negative impacts could be mitigated through positive measures. The assessment study should also demonstrate that the development will not cause net increase in pollution load to Deep Bay. Some local and minor uses are however exempted from the requirement of EcoIA.

5. Background

The Site is not subject to any active planning enforcement action.

6. **Previous Application**

The Site forms part of a previous application (No. A/YL-LFS/463) for proposed filling of pond and filling of land for eight permitted houses (NTEH - Small Houses), which was rejected by the Committee on 5.5.2023 mainly on grounds of being not in line with TPB PG-No. 12C (viz. no EcoIA submitted to demonstrate no “net-loss in wetland” and negative off-site indirect impact on the ecological value of WCA); and failure to demonstrate no adverse drainage impact. Details of the previous application are summarised at **Appendix III** and its location is shown on **Plan A-1b**.

7. **Similar Applications**

- 7.1 Within/straddling the same “V” zone, there were 13 similar applications for filling of pond/land for permitted NTEH development and/or agricultural use. Eight of them were approved whilst five were rejected by the Committee/the Board on review. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

Applications involving filling of pond

Approved applications

- 7.2 Applications No. A/YL-LFS/58 and 72 for proposed filling of pond for permitted NTEH and/or agricultural use were approved with conditions by the Committee in 2000 and 2001 respectively mainly on consideration that the technical concerns on drainage aspect could be addressed by approval conditions.
- 7.3 Application No. A/YL-LFS/216 for proposed filling of pond for permitted NTEH was approved with conditions by the Board on review in 2013 on considerations that the revised ecological appraisal had demonstrated no significant adverse ecological impact on the WCA; the drainage proposal was considered acceptable; and technical concerns on ecological, drainage and landscape aspects could be addressed by approval conditions.

Rejected applications

- 7.4 Application No. A/YL-LFS/447 for proposed filling of pond for permitted agricultural use was rejected by the Board upon review on 1.6.2023 mainly on grounds of being not in line with TPB PG-No. 12C (viz. no EcoIA submitted; resulting in loss in wetland; and potential adverse impact to the wetland habitats in the vicinity); deficiency of the submitted DIA in demonstrating no adverse drainage impact; and failure to demonstrate no adverse landscape impact.
- 7.5 Application No. A/YL-LFS/491 for proposed filling of pond and filling of land for permitted NTEH was rejected by the Committee on 27.10.2023 mainly on similar grounds as stated in paragraph 6.1 above.

Applications involving filling/excavation of land only

Approved applications

- 7.6 Applications No. A/YL-LFS/270 and 271 for proposed filling of land for permitted agricultural use were approved by the Committee in 2015 mainly on considerations that the proposed land filling to facilitate always-permitted agricultural use is not incompatible with the planning intention; concerned government departments have no objection/no adverse comment; and the technical concerns could be addressed by approval conditions. In particular, the Director of Agriculture, Fisheries and Conservation (DAFC) noted that the sites and their vicinity were involved in unauthorized land filling works subject to planning enforcement actions, and considered that the sites were fragmented from the fish ponds/wetland in the WCA by the said unauthorized works and therefore had limited ecological value at that time.
- 7.7 Application No. A/YL-LFS/371 for proposed filling and excavation of land for permitted NTEH at the north of the “V” zone was approved with conditions by the Committee in 2020 mainly on considerations of no adverse comments from concerned government departments; not in contravention with TPB PG-No. 12C; and the technical concerns could be addressed by approval conditions.
- 7.8 Applications No. A/YL-LFS/387 and 413 for proposed NTEH and filling and excavation of land straddling the “V” and “Green Belt” zones were approved with conditions by the Committee in 2021 mainly on considerations of being generally in line with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories and TPB PG-No. 10 on ‘Application for Development within the Green Belt Zone’; concerned government departments generally have no objection to/adverse comment on the application; and the technical concerns could be addressed by approval conditions.

Rejected Applications

- 7.9 Applications No. A/YL-LFS/472 (at the same site as application No. A/YL-LFS/271), 488 and 489 (both at the same site as application No. A/YL-LFS/270) for proposed filling of land for permitted agricultural use were rejected by the Committee on 14.7.2023 and 13.10.2023 mainly on grounds of being not in line with TPB PG-No. 12C (viz. no EcoIA to demonstrate no negative off-site disturbance impact on the ecological value of the WCA); failure to demonstrate the need for the proposed filling of land; and failure to demonstrate no adverse landscape impact on the surrounding areas. In particular, as compared with the approved previous applications (No. A/YL-LFS/270 and 271), there has been a change in planning and ecological circumstances, i.e. dense vegetation has grown between the sites and the ponds/wetland in the WCA with the reinstatement of the previous unauthorized land filling works.

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

8.1 The Site:

- (a) mainly forms part of a larger pond overgrown with vegetation, whilst the

southernmost portion is land covered with vegetation; and

- (b) is inaccessible as the immediate vicinity of the Site is overgrown with vegetation. The nearest access to the Site is located to its northeast (at about 64m) which is accessible from a local track branching off Deep Bay Road² (**Plan A-2**).
- 8.2 The surrounding areas are predominated by ponds, fallow agricultural land and village houses. Other uses such as parking of vehicles and storage yards can also be found in the vicinity. Some of the uses are suspected unauthorized developments subject to planning enforcement actions.
- 8.3 To the immediate south is a stream; to the further south are ponds falling within the “Conservation Area” (“CA”) zone and the WCA.

9. Planning Intention

- 9.1 The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 9.2 As filling of land/pond and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the 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, LandsD (DLO/YL, LandsD):
 - (a) The Site comprises two Old Schedule agricultural lots held under the Block Government Lease.
 - (b) The Site falls within the “V” zone encircling Mong Tseng Wai and Mong Tseng Tsuen, which are recognized villages (RVs). Consideration may be given to the Small House applications for sites within the “V” zone which encircles the RV.

² The applicant proposes that the construction vehicles would access the Site from the south (**Drawing A-3**). However, there is a stream to the immediate south of the Site which is not included in the application site boundary (**Plan A-2**). Moreover, by comparing the aerial photos taken between January and March 2022 (**Plans A-3a and A-3b**), a road along the proposed construction vehicular access was formed within the “CA” zone and the WCA without valid planning permission, which may constitute unauthorized development subject to planning enforcement action.

- (c) According to his record, there is one Small House application at Lot 1442 in D.D.129 under processing, which is lodged by the applicant of the current application.
- (d) The applicant should note his advisory comments in **Appendix VI**.

Nature Conservation and Fisheries

10.1.2 Comments of DAFC:

- (a) He does not support the application.

Nature Conservation

- (b) The Site is a piece of wetland overgrown with wetland plant that falls within the WBA and is to the immediate north of the WCA. The proposed vehicular access to the immediate south of the Site cuts across a stream and falls within the WCA, the “CA” zone and the Priority Site for Enhanced Conservation (viz. Deep Bay Wetland outside Ramsar Site) (**Plans A-2 and A-3a**). However, no EcoIA has been submitted to demonstrate that the proposed development would not lead to wetland loss and would not cause negative impacts on the ecological value of the WCA.

Fisheries

- (c) Pond filling is generally not recommended from a fisheries viewpoint. Although the fish pond is currently of unknown status, it has the potential to be used for fish culture operation in the future.

Environment

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

- (a) He has no objection to the proposed filling of pond and filling of land.
- (b) Currently, there is no indication of whether the boundary of the filling works will strictly follow the application site boundary. Should there be any construction and operation of vehicular access road within the “CA” zone, it would potentially constitute designated project under Item Q.1, Part I of Schedule 2 of the Environmental Impact Assessment Ordinance (EIAO), and Environmental Permit would be required for its construction and operation.
- (c) The applicant should note his advisory comments in **Appendix VI**.

Landscaping

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

- (a) The Site is situated in area of rural landscape predominated by village houses, ponds, marshland and woodland. The Site is covered with vegetation.
- (b) Significant landscape impact on the existing pond and vegetation within the Site arising from the proposed filling of pond and filling of land is envisaged. However, no mitigation measures and landscape proposal are provided in the submission to demonstrate that the proposed development would not have adverse landscape impact on the Site and its surrounding areas.
- (c) As there are existing ponds in the “CA” zone to the immediate south of the Site, she has grave concern that the proposed filling of pond and filling of land would further degrade the landscape resources and quality of the WBA, as well as the adjacent “CA” zone and the WCA. The proposed filling of pond and filling of land is considered incompatible with the surrounding areas.

Drainage

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

- (a) It is noted that currently there are upstream Small House/village drains connected to the subject pond which is proposed to be partially filled. The drainage proposal submitted could not clearly indicate those existing drainage facilities.
- (b) It is also noted that the stream to the immediate south of the Site may be affected or even blocked due to the proposed pond and land filling works, particularly when construction vehicles traffic are proposed to access the Site from the south that cut across the stream.
- (c) Besides, the subject pond functions as a flood retention area during rainfall collecting surface runoff from the vicinity. As there is no information provided in the submission on how the filling of pond and land would be confined within the Site, the filling works may encroach onto the lots adjoining the Site, thereby significantly reduces the retention volume of the pond.
- (d) In view of the above, the applicant is required to submit a DIA to demonstrate whether the proposed filling of pond and filling of land would cause significant adverse impact to the surrounding area including the discharge path of the upstream drainage system, the capacity of the stream to the immediate south of the Site, as well as the flood retention function of the pond due to any envisaged spread of filling area outside the application site. A comprehensive stream

diversion scheme, if any, should also be supplemented in the impact assessment for consideration.

District Officer's Comments

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

He has consulted the locals regarding the application. Six local comments from the Indigenous Inhabitant Representative of Mong Tseng Wai and villagers of Mong Tseng Wai/Tsuen (Samples at **Appendices IV-1 and IV-2**) are received objecting to the application mainly on grounds that the proposed development abuts the WCA and would cause adverse ecological impacts on the migratory birds; the proposed development would impede the flood retention function of the Site and cause adverse drainage impact; the proposed construction vehicular access is merely a substandard soil track; and the Site has been subject to unauthorized filling works.

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

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (d) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (e) Project Manager (West), CEDD (PM(W), CEDD);
- (f) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (g) Commissioner for Transport (C for T);
- (h) Commissioner of Police (C of P); and
- (i) Director of Fire Services (D of FS).

11. Public Comments Received During Statutory Publication Period

On 20.10.2023, the application was published for public inspection. During the statutory public inspection period, five public comments from the Conservancy Association and individuals (**Appendices V-1 to V-5**) were received objecting to the application mainly on the following grounds:

- (a) the Site and the proposed construction vehicular access falls within the WBA and is close to the Deep Bay Wetland Outside Ramsar Site, a Priority Site for Enhanced Conservation which has been a roosting and foraging ground for a multitude of birds and insects. The proposed development and the construction vehicular access are not in line with the planning intention of the WBA and the “no-net-loss in wetland” principle under TPB PG-No. 12C, and would cause significant and irrevocable adverse ecological impact;
- (b) the subject pond serves the function of flood retention and should be preserved. The proposed pond filling would cause adverse drainage impact on the surrounding areas,

especially when extreme weather events become more frequent nowadays;

- (c) there are a number of ponds nearby. However, no information is provided on the collection, treatment and disposal of sewage during the construction and operation stages. The proposed pond filling may cause adverse water quality impact to the surrounding ponds;
- (d) the noise impact during the construction stage may cover the dry seasons with influx of migratory birds to the Deep Bay area. However, no mitigation measure has been proposed to avoid or minimise the disturbance;
- (e) the proposed development would adversely affect the unique landscape character of Mong Tseng Tsuen/Wai;
- (f) rather than vandalising the area of conservation importance, Small House development should be concentrated on land;
- (g) further Small House development would exacerbate the traffic congestion problem of the village access; and
- (h) the proposed Small House development is not in line with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories.

12. Planning Considerations and Assessments

12.1 The application is for proposed filling of pond (soil and hard paving of about 1m to 2m in depth) and filling of land (soil and concrete of about 0.5m to 1m in depth) for one permitted house (NTEH - Small House) at the Site zoned “V” on the OZP (**Plan A-1**). Whilst ‘House (NTEH only)’ is always permitted within the “V” zone, filling of pond and land is subject to planning permission as it may cause adverse drainage impacts on the adjacent area and adverse impacts on the environment. In these regards, DAFC does not support the application from nature conservation perspective (to be further elaborated in paragraph 12.2 below). Moreover, CE/MN of DSD raises concerns about the impact of the proposed filling of pond and land on the surrounding areas, including the upstream village drainage system connected to the subject pond, the flood retention function of the pond, and the capacity of the stream to the immediate south of the Site which will be cut across by the proposed access for construction vehicles (**Drawing A-3** and **Plan A-3a**). However, no DIA or other information is provided by the applicant to address CE/MN of DSD’s concerns. As such, the applicant fails to demonstrate that the proposed filling of pond and land would not have adverse drainage impact on the surrounding areas.

12.2 The Site falls within the WBA, and is located to the immediate north of the ponds within the “CA” zone and the WCA. According to TPB PG-No. 12C, the Board adopts the principle of “no-net-loss in wetland” which provides for the conservation of continuous and adjoining fishponds. No decline in wetland or ecological functions served by the existing fish ponds should occur. Also, development/redevelopment which may have negative impacts on the ecological value of the WCA would not be supported by the Board unless an EcoIA can demonstrate that the negative impacts could be mitigated through positive measures. In this regard, DAFC considers that the Site is a piece of wetland in close proximity to the “CA”

zone and the WCA to the immediate south. He also notes that the proposed construction vehicular access (**Drawing A-3 and Plan A-2**) will cut across a stream and falls within the “CA” zone, the WCA and the Priority Site for Enhanced Conservation (viz. Deep Bay Wetland outside Ramsar Site). He does not support the application from nature conservation point of view as no EcoIA has been submitted to demonstrate that the proposed filling of pond and land would not lead to wetland loss and would not cause negative impacts on the ecological value of the WCA. In view of the above, the proposed filling of pond and land is considered not in line with TPB PG-No. 12C.

- 12.3 According to the applicant, the proposed filling of pond and land is for erection of one NTEH at the Site (**Drawing A-2**). However, no justification is provided in the submission as to why erection of one NTEH, with a footprint of about 65.03m² only, requires the filling of land and pond over two private lots with an area of about 807m² in area. In this regard, the extent of the proposed pond and land filling is considered excessive. CTP/UD&L of PlanD also considers that significant landscape impact on the existing pond and vegetation within the Site arising from the proposed filling of pond and land is envisaged. Moreover, considering there are existing ponds within the “CA” zone to the immediate south of the Site, she has grave concern that the proposed filling of pond and land would further degrade the landscape quality of the WBA, as well as the adjacent “CA” zone and the WCA. However, no information is provided in the submission to address CTP/UD&L’s concern. Hence, the applicant fails to demonstrate that the proposed filling of pond and land would not have significant adverse landscape impact on the surrounding areas.
- 12.4 Apart from the nature conservation concerns, DAFC does not support the application from the fisheries viewpoint as the pond has the potential to be used for fish culture operation in the future. Whilst DEP has no objection to the application, he advised that the vehicular access to the Site straddling the “CA” zone would potentially constitute designated project under EIAO where Environmental Permit for its construction and operation would be required. Other concerned departments including C for T has no objection to or no adverse comment on the application from traffic perspective.
- 12.5 The Site forms part of a previous application (No. A/YL-LFS/463) for the same proposed development, which was rejected by the Committee on 5.5.2023 mainly on grounds of being not in line with TPB PG-No. 12C (viz. no EcoIA submitted to demonstrate no “net-loss in wetland” and negative off-site indirect impact on the ecological value of WCA); and failure to demonstrate no adverse drainage impact. Again, no EcoIA, DIA or other information is submitted under the current application to demonstrate that the proposed development would not have adverse ecological and drainage impacts. Furthermore, there has been no major change in planning circumstances since the rejection of the previous application.
- 12.6 Although the Committee/Board has approved eight similar applications involving filling of pond or land within the subject “V” zone between 2000 and 2021, five of the applications (No. A/YL-LFS/270, 271, 371, 387 and 413) do not involve filling of pond, and DAFC and CE/MN of DSD had no objection to/no adverse comment on these applications. As for the three approved similar applications involving filling of pond, the technical concerns of CE/MN of DSD could be addressed by approval conditions. Also, an ecological appraisal was submitted under application No. A/YL-LFS/216 to demonstrate that no significant ecological impact on the WCA

was anticipated, on which DAFC has no adverse comment from nature conservation perspective. The circumstances of the current application are different from the approved applications. In fact, two similar applications involving filling of pond (No. A/YL-LFS/447 and 491) within the same “V” zone was rejected by the Committee/the Board upon review on 1.6.2023 and 27.10.2023 respectively as the applicants failed to address departmental concerns on similar aspects. As such, rejecting the current application is in line with the previous decisions of the Committee.

- 12.7 Regarding the local views conveyed by DO/YL of HAD and the public comments received objecting to the application as summarised in paragraph 10.1.6 and 11 respectively, the planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the local views and public comments mentioned in paragraphs 10.1.6 and 11 respectively, the Planning Department does not support the application for the following reasons:

- (a) the proposed filling of pond and land, which falls within the Wetland Buffer Area, is not in line with 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) in that there is no ecological impact assessment in the submission to demonstrate that the proposed development would not result in “net-loss in wetland” and negative off-site indirect impact on the ecological value of the Wetland Conservation Area; and
- (b) the applicant fails to demonstrate that the proposed filling of pond and land would not have adverse drainage impact on the surrounding areas.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **8.12.2027**, 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 following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no waste, including construction waste, as defined in the Waste Disposal Ordinance, is allowed to be used to fill the Site;
- (b) the submission of an ecological impact assessment for the proposed filling of pond and land, and implementation of the ecological mitigation measures identified therein before commencement of the filling of pond and land to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (c) the submission of a drainage impact assessment before commencement of the filling of pond and land to the satisfaction of the Director of Drainage Services

or of the Town Planning Board;

- (d) in relation to (c) above, the implementation of the drainage proposal identified in the drainage impact assessment upon completion of the proposed filling of pond and land to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (e) if any of the above planning condition (a), (b), (c) or (d) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant planning 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 date when the validity of the permission should expire.

15. Attachments

Appendix I	Application Form received on 13.10.2023
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Deep Bay Area (TPB PG-No. 12C)
Appendix III	Previous and Similar Applications
Appendices IV-1 and IV-2	Samples of Local Views conveyed by District Officer/Yuen Long
Appendices V-1 to V-5	Public Comments Received During Statutory Publication Period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Pond and Land Filling Plan
Drawing A-2	NTEH Block Plan
Drawing A-3	Vehicular Access Plan
Drawing A-4	Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Site Plan with Previous Application
Plan A-2	Site Plan
Plans A-3a and A-3b	Aerial Photos taken in January 2022 and March 2022
Plan A-4	Site Photo

**PLANNING DEPARTMENT
DECEMBER 2023**