RNTPC Paper No. A/YL-LFS/543 For Consideration by the Rural and New Town Planning <u>Committee on 10.1.2025</u>

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/543

<u>Applicants</u>	:	國懋環球投資有限公司及南程有限公司 represented by FiBi International Project Consultancy Co. Limited
<u>Site</u>	:	Lots 626, 710 and 712 in D.D. 129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
<u>Site Area</u>	:	About 2,060m ² (including GL of about 39m ² or 1.9%)
Lease	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
Zoning	:	"Green Belt" ("GB")
<u>Application</u>	:	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

1. <u>The Proposal</u>

- 1.1 The applicants seek planning permission for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years at the application site (the Site) (**Plan A-1**) zoned "GB" on the OZP. According to the Notes for the "GB" zone, 'Place of Recreation, Sports or Culture' is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is largely fenced off, formed and largely vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 As shown on the vehicular access plan at Drawing A-2, the Site is accessible from Deep Bay Road via a local track, with the ingress/egress located at the southwest of the Site (Drawing A-1). As shown on the layout plan at Drawing A-1, four single-storey structures (not more than 4m in height) with a total floor area of about 572m² are proposed for greenhouse, office, staff resting area and restroom. The total area for cultivation [i.e. the three greenhouses (532m²) and open-field areas (1,117m²)] will be about 1,649m² (or about 80% of the Site) (Drawing A-1). Two parking spaces for private cars would be provided for staff and visitors. No parking of lorries will be allowed except during construction stage. According to the applicants, the proposed development does not involve filling of land¹.

¹Land filling works to raise the level of the Site had been taken without planning permission since 2016. As filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment and landscape, permission from the Board is required for such activities.

- 1.3 According to the applicants, the greenhouses and open-field would only be used for cultivation by villagers in Mong Tseng Tsuen for growing herbs, flowers, fruits and vegetables. The operation hours would be between 9 a.m. and 4 p.m. on Sundays and a maximum of 20 visitors would be accommodated. Drainage facilities (i.e. surface U-channels and catchpits) are provided (**Drawing A-3**). Sewage generated from the proposed toilet would be collected by a sewage holding tank and tanked away regularly. No information is provided in the application regarding the use of the Site from Mondays to Saturdays.
- 1.4 The Site is the subject of four previous applications (No. A/YL-LFS/278, 366, 494 and 511) for the same proposed use. Applications No. A/YL-LFS/278 and 366 were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2015 and 2020 respectively. However, the planning permissions under both applications were subsequently revoked in 2016 and 2022 respectively due to non-compliance with approval conditions prohibiting land filling and site formation. Applications No. A/YL-LFS/494 and 511 were rejected by the Committee in 2023 and 2024 respectively (details at paragraph 6 below). Compared with the last previous application No. A/YL-LFS/511, the current application is submitted by the same applicants with a revised site layout, development parameters and operation hours.

	Previous Application No. A/YL-LFS/511 (a)	Current Application No. A/YL-LFS/543 (b)	Difference (b) - (a)
Site Area	$\begin{array}{c c} (a) & (b) \\ \hline about 2,060m^2 \\ (incl. GL of about 39m^2) \end{array}$		No change
Applied uses	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years	No change
No. of structures	5 • for greenhouses, visitors resting area, office, staff resting area, store room, toilet, guardhouse and cashier booth uses	 4 for greenhouses, office, staff resting area and restroom 	-1 (-20%)
Total Floor Area	about 503m ²	about 572m ²	$+69m^{2}(+13.7\%)$
Height of structures	1 storey (about 3m to 4m)	1 storey (Not more than 4m)	No change
Cultivation Area	about 1,333m ²	about 1,649m ²	+316m ² (+23.7%)
No. of parking spaces	6 (private cars)	2 (private cars)	-4 (-200%)
Operation Hours	9 a.m. to 6 p.m. (Mondays to Saturdays) 9 a.m. to 8 p.m. (Sundays and public holidays)	9 a.m. to 4 p.m. (Sundays only)	NA

1.5 A comparison of the major development parameters between the last previous application No. A/YL-LFS/511 and the current application is as follows.

- 1.6 In support of the application, the applicants have submitted the following documents:
 - (a) Application Form with attachments received on 20.11.2024 (Appendix I)
 - (b) Further Information (FI) received on 23.12.2024* (Appendix Ia) * accepted and exempted from publication and recounting requirements

2. <u>Justifications from the Applicants</u>

The justifications put forth by the applicants in support of the application are detailed in the Application Form with attachment at **Appendix I**. They can be summarised as follows:

- (a) the Site will only open on Sundays and will only be used by villagers in Mong Tseng Tsuen. The proposed use will not have any impacts on the surrounding areas;
- (b) the proposed hobby farm is temporary in nature for a period of three years and will not jeopardise the long-term planning intention;
- (c) similar applications have been approved within the same "GB" zone; and
- (d) the applicants will comply with the approval conditions imposed by the Board.

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

The applicants are the sole "current land owners" of their respective lots. Detailed information would be deposited at the meeting for Members' inspection. For the GL portion, the requirements under 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) are not applicable.

4. Town Planning Board Guidelines

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 detailed at **Appendix II**.

5. <u>Background</u>

As shown on the time-series site photos taken in June 2020, February 2021 and November 2024 (**Plans A-5a and A-5b**), filling of land to raise the site formation level of the Site from 4.9mPD² to about 7mPD³ had taken place without planning permission⁴. Should

² According to spot height on Survey Sheet No. 2-SW-17D prepared by the Lands Department (Plan A-2).

³ According to Planning Department's (PlanD) site survey on 20.2.2024 and 24.12.2024.

⁴ The applicants have been the registered land owners of the Site since 2013 (for Lots 626 and 712)/2015 (for Lot 710 in D.D.129).

there be sufficient evidence to form an opinion that there is unauthorized development at the Site, planning enforcement would be undertaken.

6. <u>Previous Applications</u>

- 6.1 The Site is the subject of four previous applications (No. A/YL-LFS/278, 366, 494 and 511) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- Applications No. A/YL-LFS/278 and 366 were approved with conditions by the 6.2 Committee 20.11.2015 and 6.11.2020 respectively mainly on considerations that the proposed use was not in conflict with the planning intention of the "GB" zone and being in line with TPB PG-No.10; the proposed use did not involve land filling or site formation; the proposed use was not incompatible with the surrounding environment; and there were generally no adverse comments from concerned government departments and technical concerns could be addressed by approval conditions. As the Site was originally located at a site level lower than the local track to the south, the Chief Town Planner/Urban Design and Landscape (CTP/UD&L) of PlanD had concern that adverse landscape impact would be caused by the possible land filling/site formation works. As such, an approval condition prohibiting land filling/site formation was imposed under the two previous permissions. Nevertheless, both previous permissions were subsequently revoked in 2016 and 2022 due to non-compliance with approval conditions prohibiting land filling/site formation at the Site. In particular, a fill platform composed of soil and construction debris was formed at the Site in 2016, whilst a fill platform comprising asphalt and soil intermixed with rocks and construction debris was formed at the Site from 2021 to 2022 (Plans A-5a to A-5b).
- 6.3 Application No. A/YL-LFS/494 was rejected by the Committee on 24.11.2023 mainly on grounds that the proposed use with brick paving taking up about 9.5% of the Site was not in line with the planning intention; there was no strong planning justification to warrant a departure from planning intention in that the proposed cultivation areas would occupy only about 53.5% of the Site; the proposed use with bricks paving was not compatible with the surrounding environment; the proposed use involving extensive vegetation clearance and site formation between 2016 and 2023 was not in line with TPB PG-No. 10; and approval of application with repeated non-compliance with approval conditions would nullify the statutory planning control mechanism.
- 6.4 Application No. A/YL-LFS/511 was rejected by the Committee on 5.4.2024 mainly on grounds that the proposed use was not in line with the planning intention and the TPB PG-No. 10 in that the applicants failed to demonstrate that the proposed use would not have adverse landscape impact on the surrounding areas.

7. <u>Similar Applications</u>

7.1 Within the same "GB" zone, there are 10 similar applications (No. A/YL-LFS/363, 380, 408, 409, 414, 419, 435, 475, 484 and 531) for hobby farm with or without other uses/facilities and filling of land in the past five years. Six of them were

approved while four were rejected by the Committee. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

Approved applications

- 7.2 Five applications (No. A/YL-LFS/380, 408, 414, 435 and 475) covering five different sites for temporary hobby farm involving/not involving any filling of land were approved by the Committee between 2019 and 2023 mainly on similar considerations as summarised in paragraph 6.2 above.
- 7.3 Application No. A/YL-LFS/363 with other uses/facilities and retainment of hardpaving (about 118m² or 0.57% of the Site) was approved by the Committee in 2020 mainly on considerations that the applied use was not in conflict with the planning intention of the "GB" zone; the applied use was not incompatible with the surrounding environment; there were generally no adverse comments from concerned government departments and the technical concerns could be addressed by approval conditions.

Rejected applications

- 7.4 Applications No. A/YL-LFS/409 and 419 covering one same site involving filling of soil atop concrete-paving covering the entire site for hobby farm were rejected by the Committee in 2021 and 2022 respectively mainly on grounds that the proposed use was not in line with the planning intention and TPB PG-No. 10; there was no strong justification to demonstrate that the proposed use was genuinely for hobby farm use; and/or there were adverse comments from concerned government department on slope safety aspect. In particular, application No. A/YL-LFS/419 involved filling of soil atop concrete paving which was considered excessive.
- 7.5 Application No. A/YL-LFS/484 for hobby farm with vegetation clearance, concrete paving of about half of the site and excavation of land and application No. A/YL-LFS/531 for hobby farm were rejected by the Committee on 13.10.2023 and 25.10.2024 respectively mainly on grounds of being not in line with the planning intention as well as TPB PG-No. 10 due to incompatibility with the surrounding areas and adverse landscape impact. For application No. A/YL-LFS/484, there was also no strong justification to demonstrate that the proposed use was genuinely for hobby farm use in that the proposed cultivation area occupied less than half of the Site, and the soil on site was considered not suitable for cultivation.

8. <u>The Site and Its Surrounding Areas</u> (Plans A-1 to A-4b)

- 8.1 The Site is:
 - (a) largely fenced off, formed and largely vacant; and
 - (b) accessible from Deep Bay Road located to its west via a local track.
- 8.2 The surrounding areas are predominated by shrubland and cultivated agricultural land. Other uses such as storage yards, warehouses, container vehicle park, parking of vehicles and residential dwellings are also found in the vicinity of the Site. Some

of the uses are suspected unauthorized developments (UDs) subject to planning enforcement action.

9. <u>Planning Intention</u>

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.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraphs 10.2 and 10.3 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.
- 10.2 The following government departments have adverse comments on the application:

Landscaping

- 10.2.1 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (a) According to the aerial photo of 2023, the Site is situated in area of rural coastal plains predominated by temporary structures, village houses, farmland, pond and existing woodland. From the site photos taken in November 2024, the Site was covered by bare soil surface and grasses. Some potted plants within the Site were recorded.
 - (b) As recorded in the aerial photos of 2020, 2022 and 2023 (Plans A-3a to A-3c), extensive site formation and removal of existing trees and vegetation had already undertaken at the Site and adverse impact on landscape resources had taken place.
 - (c) Moreover, noting the existing tree groups in the vicinity within the same "GB" zone, she has concern that proposed use would further degrade the landscape resources and quality of the "GB" zone. The proposed use is considered incompatible with the surrounding landscape resources from the landscape planning perspective.

Geotechnical

- 10.2.2 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department H(GEO), CEDD:
 - (a) According to his record, unauthorized land filling at the subject lots and the adjoining GL had been identified, such unauthorized works were probably not under proper design and quality site supervision of the

works constructed, and also there was no available records to show the actual extent of the works, nor records to reflect that the works were carried out in compliance with the safety standards. There would be concerns from slope safety point of view if slopes/retaining walls are presented within the Site, as they might affect or be affected by the proposed use.

- (b) In view of the fact that the Site had undergone unauthorized development lapsing a considerable period of time, the original topography of the Site might have been altered, and there is no information or updated records of possible existence of man-made geotechnical features (i.e. slopes/retaining walls) within the Site, which might affect or be affected by the proposed use of the application, the applicant should be requested to provide a recent topographical survey results and a preliminary identification of possible existence of man-made features constructed within or in the vicinity of the Site, which may affect or be affected by the proposed use, and subsequent follow-up actions required by the applicant for consideration by his office at this stage.
- (c) The applicant may be requested to demonstrate that whether slopes/retaining walls (man-made slope features) are indeed presented within the Site based on the topographic survey result and that the development proposal would not affect or be affected by the man-made slope features prior to the occupation of the Site.
- 10.3 The following government department conveyed local objections to the application:

District Officer's Comments

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

He has consulted the locals regarding the application. Two local comments from the Village Representative of Mong Tseng Wai and an individual (**Appendices VI-1, VI-2 and VI-3**) were received objecting to the application on grounds that the Site abuts the only access to the villages and the proposed use would cause traffic congestion and pedestrian-vehicular conflict thereat; and extensive filling of land had been undertaken on the Site and the illegal fill has not been removed and properly disposed of; the access road was built by villagers donating land for their daily use and is not suitable for commercial use at the moment.

11. Public Comments Received During Statutory Publication Period

On 29.11.2024, the application was published for public inspection. During the statutory public inspection period, three public comments from the Conservancy Association and two individuals (**Appendices VII-1, VII-2 and VII-3**) were received objecting to the application on grounds that further degradation of the landscape resources by the proposed use is envisaged; the proposed use would cause traffic congestion and pedestrian-vehicular conflict thereat; extensive filling of land had been undertaken which cause flooding in the

surrounding areas; the approval condition against filling of land was breached consistently and to prevent setting undesirable precedent for similar case in the future. There were also public queries on the location of the GL within the Site; and whether the occupation of GL will cause obstruction to the existing vehicular access, pavement and access to private lots.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years at the Site within the "GB" zone of the OZP (**Plan A-1**). No application is made for regularisation of land filling works that have been undertaken at the Site. There is a general presumption against development within the "GB" zone. Although the applicants claim that no filling and excavation of land would be undertaken, the Site had been subject to extensive vegetation clearance and filling of land between 2020 and 2023 (to be elaborated in paragraphs 12.2 and 12.4 below). Taking into account the planning intention of the "GB" zone. There is no strong planning justification given in the submission to warrant a departure from the planning intention, even on a temporary basis.
- 12.2 As stated in TPB PG-No. 10, an application for new development within "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Also, the design and layout of any proposed development within "GB" zone shall be compatible with the surrounding area. The development shall not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. With regard to the impact on existing natural vegetation and landscape, by comparing the time-series aerial photos between 2021 and 2023 (Plans A-3a to A-3c) as well as site photos between 2020 and 2024 (Plans A-5a and A-5b), it is evident that extensive vegetation clearance and filling of land had been undertaken. The Site, forming an integral part of a much larger "GB" zone, has gradually been transformed from a low-lying woodland to formed land, with raised site formation level from about 4.9mPD to about 7mPD. CTP/UD&L of PlanD considers that adverse impact on landscape resources had taken place. Noting the existing tree groups in the vicinity and further degradation of the landscape resources and quality of the "GB" zone by the proposed use is envisaged, she also considers that the proposed use is incompatible with the surrounding landscape resources from the landscape planning perspective. Furthermore, H(GEO), CEDD advised that the Site had undergone unauthorized development and the applicants shall provide a recent topographical survey results and a preliminary identification of possible existence of man-made features which may affect or be affected by the proposed use. In this regard, the applicants have not made any submission to address H(GEO), CEDD's comments and to demonstrate that the proposed use will not result in adverse slope safety impact. In view of the above, the proposed use is considered not in line with TPB PG-No. 10.
- 12.3 Other concerned government departments including the Director of Agriculture, Fisheries and Conservation, Director of Environmental Protection, Commissioner for Transport (C for T), Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no adverse comments/no objection to the application from agricultural nature conservation, environment, traffic, drainage and fire safety perspectives respectively.

- 12.4 The Site is the subject of four previous applications (No. A/YL-LFS/278, 366, 494 and 511) for the same use. Application No. A/YL-LFS/278 and 366 were approved with conditions by the Committee in 2015 and 2020 respectively on consideration, inter alias, that all existing trees would be preserved and/or no site formation would be undertaken. As detailed in paragraph 6.2 above, despite the imposition of approval condition prohibited landfilling, the Site had subsequently been transformed from a low-lying woodland to formed land without planning permission between 2020 and 2023 (Plans A-5a and A-5b). Hence, no genuine effort had been paid in complying with the said approval condition. Against this background, application No. A/YL-LFS/494 was rejected by the Committee on 24.11.2023 on grounds, inter alias, that approving applications with repeated non-compliance with approval condition would set an undesirable precedent and nullify the statutory planning control mechanism. The latest application No. A/YL-LFS/511 was also rejected by the Committee on 5.4.2024 on grounds of being not in line with the planning intention and TPB PG-No. 10. Since then, the Site has not been reinstated to its original site level, nor has there been a major change in planning circumstances since the rejection of the last previous application.
- 12.5 Although the Committee approved six similar applications for temporary hobby farm with or without other uses/facilities within the same "GB" zone in the past five years, they generally involve minimal extent of filling of land (about 118m² or 0.57% of the site for Application No. A/YL-LFS/363) or even no filling of land at all (for the other five similar applications). The current application does not warrant the same considerations as extensive unauthorized filling of land to raise the site formation level had taken place. In fact, the Committee rejected four similar applications that involved filling of land or had adverse departmental comments. In view of the above, rejecting the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the local views and public comments objecting to the application as summarised in paragraphs 10.31 and 11 above, the planning consideration and assessment in paragraphs 12.1 to 12.5 above are relevant. As for the public comment raising queries on whether the occupation of the GL within the Site would cause obstruction, District Lands Officer/Yuen Long, Lands Department and C for T has no comments in this regard.

13. <u>Planning Department's Views</u>

- 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 10.3.1 and 11 respectively, the Planning Department <u>does not support</u> the application for the following reasons:
 - (a) the proposed use 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, even on a temporary basis; and

- (b) the proposed use is not in line with the 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) in that the applicants fail to demonstrate that the proposed use would not have adverse slope safety and landscape impacts on the surrounding areas.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until **10.1.2028**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no land filling or site formation is allowed on the site during the planning approval period;
- (b) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by <u>10.7.2025</u>;
- (c) in relation to (b) above, the implementation of the 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 <u>10.10.2025</u>;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **10.7.2025**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by <u>10.10.2025</u>;
- (g) if any of the above planning condition (a) or (d) 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;
- (h) if any of the above planning condition (b), (c), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (i) 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**.

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 applicants.
- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form with attachments received on 20.11.2024
Appendix Ia	FI received on 23.12.2024
Appendix II	Extracts of Town Planning Board Guidelines for Application
	for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1, VI-2	Local Views conveyed by District Officer/Yuen Long
and VI-3	
Appendices VII-1,	Public Comment Received During Statutory Publication Period
VII-2 and VII-3	
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plans A-3a to A-3c	Aerial Photos taken in 2023, 2022 and 2020
Plans A-4a and A-4b	Site Photos
Plans A-5a and A-5b	Time-series Site Photos taken in 2020, 2021 and 2024

PLANNING DEPARTMENT JANUARY 2025