

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/327

<u>Applicant</u>	: Mission Ark Limited
<u>Premises</u>	: First Floor, Lot 4620 in D.D.104, Mai Po, Yuen Long
<u>Total Floor Area of Premises</u>	: 174 m ²
<u>Lease</u>	: New Grant No. 1149 (a) To expire on 30.6.2047 (b) For clinic, chapel and staff accommodation purposes (c) 1/F of the Building: may be used for school in week-days and permissible for the purpose of a drug dependent persons treatment and rehabilitation centre upon waiver
<u>Plan</u>	: Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<u>Zoning</u>	: “Recreation” (“REC”)
<u>Application</u>	: Temporary Social Welfare Facility (Drug Dependent Persons Treatment and Rehabilitation Centre) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) (**Plan A-1**) for temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) for a period of 3 years. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years require planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Premises occupies the 1/F of an existing 2-storey church building at Lot 4620 in D.D. 104 in Mai Po (the Site). The Premises is currently used for the applied use without valid planning permission.
- 1.2 The Premises is the subject of five approved previous applications (**Plan A-1**) for the same use submitted by the same applicant. The last Application No. A/YL-MP/283 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 19.7.2019 for a period of 3 years. The planning permission was subsequently revoked on 19.1.2021 due to

non-compliance with approval conditions on the submission and implementation of fire service installations (FSIs).

- 1.3 As shown on **Plan A-2**, the Premises is accessible at the south of the Site via an existing track leading from Castle Peak Road. The layout of the Premises submitted by the applicant is at **Drawing A-1**. The drug dependent persons treatment and rehabilitation centre (i.e. Yuen Long Centre) is on 1/F of the Site with a gross floor area (GFA) of 174m² and a net floor area of 120.63m² comprising four dormitories for a maximum of 20 residents, 9 inhabitant places for its staff/volunteers, a store room, a living room and two lavatories. The applicant has submitted the FS proposal at **Drawing A-2 and Drawing A-3** in the current application. No parking space will be provided. The operation hours of the drug dependent persons treatment and rehabilitation centre are 24 hours daily.
- 1.4 The current application is the same as the last approved application (No. A/YL-MP/283) in terms of applied use, site area/boundary, floor area, resident and staff population and operation hours. The current proposal has a similar site layout except for conversion of the some of the floor space from office and rest room to store room and staff dormitory.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 23.5.2022 **(Appendix I)**
 - (b) Further Information (FI) dated 7.7.2022 clarifying the **(Appendix Ia)** transportation arrangement [#]
exempted from publication requirement

2. Justifications from the Applicant

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

- (a) Mission Ark Limited is a non-profit making and non-Government subvention Christian organisation, geared towards meeting the special needs of drug addicts and substance abusers. The organisation is a gospel-based ministry for reclaiming the lives of those suffering from substance abuse and drug addiction.
- (b) A Certificate of Exemption of Treatment Centre (Certificate No. 0442) has been granted by the Director of Social Welfare. The subject centre has been in operation since March 2002 and there are a lot of drug abusers requiring the services.
- (c) Since 2004, the centre has been granted planning approvals and all approval conditions (except for the last two applications) had been complied with. The last planning application No. A/YL-MP/283 was revoked as the submission of FSIs proposal and the implementation works have been delayed due to issues arising from tenancy and funding arrangement. The current application is submitted to fulfil the relevant licencing requirement. The applicant has recently tendered the quotation from FSI contractor for the FSI works.
- (d) The proposed use will not have traffic impact on the surrounding area as

loading/unloading of all necessities to the centre will be made at nearby vehicle park and delivered to the Site by cart via the local track.

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 sending registered mail to the current Premises owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) is relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

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

6. Previous Applications

6.1 The Premises is the subject of five previous applications (No. A/YL-MP/127, 186, 226, 256 and 283) for the same temporary use submitted by the same applicant. These applications were approved with conditions by the Committee between 2004 and 2019 all for a period of 3 years, considering that the proposed use was within an existing church building and not incompatible with the surrounding uses, the centre was run by a non-profit making organisation and concerned government departments had no adverse comments. All approval conditions on submission and implementation/provision of FSIs were complied with, except for the last two applications (No. A/YL-MP/256 and 283) which were revoked in 2018 and 2021 respectively due to non-compliance with approval conditions on the submission and implementation of FSIs arising from the issues on tenancy and funding arrangement as detailed in paragraph 2(c) above.

6.2 Details of these applications are summarised at **Appendix III**.

7. Similar Application

During the past five years, there is no similar application within the same “REC” zone on the OZP.

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

8.1 The Premises is:

- (a) located on the 1/F of an existing 2-storey church building currently used for the applied use. The G/F of the church building is used as assembly hall/worship place and church's office with ancillary dinning and bed rooms;
 - (b) accessible at the south of the Site via an existing track leading from Castle Peak Road; and
 - (c) located within the Wetland Buffer Area (WBA) of the Deep Bay Area.
- 8.2 The surrounding area mainly comprises residential dwellings, grassland, plant nursery, ponds and vacant land:
- (a) to its north are scattered residential dwellings and an open storage yard;
 - (b) to its west are vacant and cultivated land, ponds and some residential dwellings;
 - (c) to its immediate east are a plant nursery and some residential dwellings; and to its further east are a vehicle park and Castle Peak Road; and
 - (d) to the immediate south is a local track, a cluster of low-rise residential developments at Yau Mei San Tsuen and grassland with Yau Pok Road to its further south.

9. Planning Intention

The "REC" zone is intended primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

10. Comments from Relevant Government Departments

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

Social Welfare

- 10.2.1 Comments of the Commissioner for Narcotics, Security Bureau (C for Narcotics, SB):
- (a) The applicant, Mission Ark Limited, has been operating its Yuen

Long Centre at the Premises, a self-financing drug treatment and rehabilitation centre (DTRC) on a Certificate of Exemption (CoE) issued by the Social Welfare Department (SWD) under the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566). The current CoE is valid from 1 July 2022 to 31 December 2022, and is renewable subject to the applicant's renewal application thereafter and the approval by the Director of Social Welfare (D of SW). According to SWD, the service provided at the Premises has met the needs of drug abusers for residential drug treatment and rehabilitation, with a satisfactory utilisation rate.

- (b) It is noted that the applicant has previously submitted five planning applications for the same applied use at the same Premises, and the last approved planning permission (No. A/YL-MP/283) was revoked on 19.1.2021 due to non-compliance with the approval conditions relating to FSIs for the Yuen Long Centre. Despite the above, he understands that the applicant has been making efforts to address this issue. Specifically, he notes that the applicant has submitted a FSI programme together with the current application (Appendix 12 of the Application Form at **Appendix I**). In addition, the applicant has separately advised SB that the owner of the Premises has agreed to extend the tenancy agreement for the operation of the Yuen Long Centre to January 2025 while the applicant is pursuing a plan to re-provision its service at the Yuen Long Center to another site on a long-term basis.
- (c) Considering the above and in consultation with SWD, he has no objection to the application from the anti-drug policy perspective so as to facilitate the continued operation of the service at the Yuen Long Centre.

10.2.2 Comments of D of SW:

He has no objection to the application from the service perspective so as to facilitate the continued operation of the service at the Yuen Long Centre.

11. **Public Comments Received During Statutory Publication Period**

On 31.5.2022, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 21.6.2022, a total of seven public comments (**Appendix VI**) were received from The Estate Owners' Committee (OC) of Royal Palms of Phase A and The Estate OC of Royal Palms of Phase B, the OC of Palm Springs Westwood, the Palm Springs Management Services Office and individuals. The public comments have raised objection to/concerns on the application on grounds of adverse impact on traffic, fire safety and public order, disturbance to the local residents, incompatibility with the "REC" zoning and the low-rise residential neighbourhood in the area, setting of undesirable precedent and previous revocation of planning permission for the applied use due to non-compliance with approval conditions.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) for a period of 3 years at the Premises, which occupies the 1/F of a 2-storey building within “REC” zone on the OZP. The planning intention of the “REC” zone is for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Although the proposed use is not in line with the planning intention of the “REC” zone, the use is housed within an existing church building and there is no known proposal for redeveloping the Site for any recreation development. The applied temporary use for a period of 3 years would not jeopardize the long term planning intention of the “REC” zone.
- 12.2 The existing rehabilitation centre at the Premises provides drug treatment and rehabilitation programmes to help drug dependent persons. C for Narcotics, SB has no objection to the application from anti-drug policy perspective and D of SW has no objection to the application to facilitate the centre’s continual operation. The temporary social welfare facility within an existing church is considered not incompatible with the existing church use within the same building, as well as the land uses of the surrounding areas, which are occupied by residential dwellings, ponds, plant nursery, vacant land, vehicle parks and open storage yard.
- 12.3 Although the Site falls within the WBA of the TPB PG-No. 12C, the guidelines specify that planning applications for temporary uses are exempted from the requirement of EcoIA. The Site is located in an existing developed area with residential dwellings and away from existing fish ponds within the WBA and the Premises has been occupied for the same applied use as previously approved. As such, DAFC has no comment on the application from nature conservation point of view.
- 12.4 Other concerned departments, including DEP, CTP/UD&L of PlanD, C for T, CE/MN of DSD and C of P have no objection to or adverse comments on the application. D of FS has no objection to the application and his requirement could be addressed by approval conditions as recommended in paragraphs 13.2 below.
- 12.5 The Premises was granted temporary permissions for the same use under five approved previous applications since 2004 for the considerations as detailed in paragraph 6 above. The current application is for the same use at the same Premises as previously approved. Except for the last two applications, all approval conditions for the other applications (Nos. A/YL-MP/127, 186 and 226) had been complied with. The last two planning applications (No. A/YL-MP/256 and 283) were revoked in 2018 and 2021 due to non-compliance of approval conditions on the submission and implementation of FSIs. The applicant explains the delay in the relevant fire service work was due to problem on tenancy agreement which has been resolved, and he has applied for funding for the FSIs works and committed to comply with the relevant approval conditions should the application be approved. The applicant has also submitted a FSI programme together with the current application. As D of FS has no objection in principle to the application, the application may be given sympathetic consideration. The applicant will be advised to closely monitor the progress on compliance with the approval conditions and that should he fail to comply with any of the approval conditions again resulting in

revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 12.6 Regarding the public comments received on the application as detailed in paragraph 11 above, the planning considerations and the departmental comments above are relevant.

13. **Planning Department's Views**

- 13.1 Based on the assessment in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary social welfare facility (drug dependent persons treatment and rehabilitation centre) could be tolerated for a period of 3 years.
- 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 15.7.2025. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of 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 15.1.2023;
- (b) in relation to (a) above, the implementation of 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 15.4.2023; and
- (c) if any of the above planning conditions (a) or (b) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

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

the proposed development is not in line with the planning intention of the "REC" zone which is intended primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. **Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant

or refuse to grant 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 the 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 23.5.2022
Appendix Ia	FI received on 7.7.2022
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout Plan of First Floor
Drawing A-2	FS Plan for First Floor
Drawing A-3	Ground Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JULY 2022**