

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/340

<u>Applicant</u>	: Mr. WONG Kai Chun represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 1793 S.B RP (Part), 1795 RP (Part) and 1796 (Part) in D.D. 105, Mai Po, Yuen Long
<u>Site Area</u>	: About 416m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of 3 Years and Associated Filling and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of three years and associated filling and excavation of land at the application site (the Site) which falls within an area zoned “V” on the approved Mai Po & Fairview Park OZP No. S/YL-MP/6 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use of the “V” zone which requires planning permission from the Town Planning Board (the Board). Filling and excavation of land in “V” zone also requires planning permission from the Board. The Site is currently vacant, partly paved and partly covered by vegetation.
- 1.2 The proposed development involves a two-storey structure (not more than 6m in height) with a gross floor area (GFA) of not more than 220m² for real estate agency and toilet use (**Drawing A-1**). No parking spaces or loading/unloading spaces will be provided within the Site. The proposed shop and services will be operated from 9:00 a.m. to 7:00 p.m. daily including public holidays. As illustrated on **Drawing A-2**, the proposed development involves filling of land of

an area of 130m² and a depth of 0.2m and excavation of land of an area of 26.4m² and a depth of 0.3m for site paving and installation of surface U-channel. As shown on **Plan A-2**, the Site is accessible from its southwest via a local access connecting to Castle Peak Road – Mai Po.

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

- (a) Application Form with attachments received on 12.4.2023 (**Appendix I**)
- (b) Further Information (FI) received on 11.5.2023* (**Appendix Ia**)
- (c) FI received on 30.5.2023 and 31.5.2023* (**Appendix Ib**)
- (d) FI received on 24.7.2023* (**Appendix Ic**)
- (e) FI received on 15.9.2023* (**Appendix Id**)

Remarks: * accepted and exempted from publication and recounting requirements.

1.4 On 9.6.2023, the Committee of the Board decided to defer a decision on the application for two months as requested by the applicant to allow time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Id** which can be summarised as follows:

- (a) The proposed shop and services (real estate service) is a Column 2 use in the “V” zone on the OZP and it would benefit the nearby residents by catering their demand for real estate.
- (b) The proposed use is a temporary use for a period of 3 years. It would not jeopardise the long term planning intention of the Site. Besides, it is not incompatible with the surrounding environment.
- (c) Consent has been obtained from owner of the subject lot, which is also the applicant of the small house application at the Site, for the proposed development.
- (d) No adverse traffic, environmental, noise and drainage impacts are anticipated.

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 notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’

inspection.

4. Town Planning Board Guidelines

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) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

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

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

7.1 During the past five years, there have been two similar applications (No. A/YL-MP/320 and 343) for shop and services use within the same “V” zone on the OZP which was approved by the Committee in 2021 and 2023 mainly on the considerations that the development would not frustrate the long term planning intention of the “V” zone; it was not incompatible with the surrounding areas; there being no adverse impacts; and concerns of government department could be addressed by approval conditions.

7.2 Details of the similar applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible at the southwest from a local access connecting to Castle Peak Road – Mai Po;
- (b) currently vacant, partly paved and partly covered with vegetation; and
- (c) located within the Wetland Buffer Area (WBA) of Deep Bay Area.

8.2 The surrounding areas are rural in character predominantly occupied by residential dwelling/village houses:

- (a) to its north and west are existing village houses and residential dwellings of Mai Po San Tsuen;

- (b) to its south and east are Castle Peak Road – Mai Po, a cycling track and San Tin Highway; and
- (c) to its southwest across Mai Po Road are residential dwellings and a planting area.

9. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and provisioning of village houses affected by government projects. 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

All government 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.

11. Public Comment Received During Statutory Publication Period

On 21.4.2023, the application was published for public comment. During the statutory publication period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary shop and services for a period of 3 years and associated filling and excavation of land. The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and provisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Other commercial, community and recreational uses may be permitted on application to the Board. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Board. District Lands Officer/Yuen Long, Lands Department advises that one Small House application has been approved at Lot 1796. Nevertheless, the applicant has obtained consent of the land owner who is also the applicant of the small house application in submitting the planning application. In this regards, although the proposed use is not entirely in line with the planning intention of the “V” zone, the approval of the application on a temporary basis for 3 years would not frustrate the long-term intention of the “V”

zone.

- 12.2 According to the applicant, the development involves land filling of an area of 130m² and a depth of 0.2m and land excavation of an area of 26.4m² and a depth of 0.3m for site paving and installation of surface U-channel. Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection to the proposed filling and excavation of land.
- 12.3 The proposed use with a two-storey (6m in height) structure is small in scale. It is located next to Castle Peak Road – Mai Po and is not incompatible with the surrounding uses which mainly comprises village houses/residential dwellings. The proposed use can provide real estate services to the local community.
- 12.4 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of an Ecological Impact Assessment. Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation point of view.
- 12.5 Concerned government departments, including DEP, Commissioner for Transport, Chief Town Planner/Urban Design and Landscape, Planning Department, CE/MN, DSD and Director of Fire Services have no objection to the application and their technical requirements are suggested to be imposed through approval conditions as recommended in paragraph 13.2 below. Besides, the applicant will be advised to follow the revised “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to mitigate any potential environmental impacts on the surrounding areas.
- 12.6 During the past five years, the Committee has approved two similar applications for temporary shop and services use within the same “V” zone on the OZP as detailed in paragraph 7 above. Approval of the current application is in line with the previous decision of the Committee.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12, the Planning Department has no objection to the application.
- 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 22.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to access the Site at any time during the planning approval period;
- (c) 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 22.3.2024;
- (d) in relation to (c) 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 22.6.2024;
- (e) the implementation of the accepted 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 22.3.2024;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b) 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; and
- (h) if any of the above planning condition (c), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are attached 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 use is not in line with the planning intention of the "V" zone, which is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within "V" zone is primarily intended for development of small houses by indigenous villagers. No strong planning justification has been given in the submission to justify the 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 with attachments received on 12.4.2023
Appendix Ia	FI received on 11.5.2023
Appendix Ib	FI received on 30.5.2023 and 31.5.2023
Appendix Ic	FI received on 24.7.2023
Appendix Id	FI received on 15.9.2023
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Land filling and excavation plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**