

RNTPC Paper No. A/YL-MP/343A
For Consideration by the Rural and
New Town Planning Committee
on 8.9.2023

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-MP/343

<u>Applicant</u>	: Mr. WONG Kai Chun represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lot 1294 RP (Part) in D.D. 105 and Adjoining Government Land (GL), Mai Po, Yuen Long
<u>Site Area</u>	: About 486m ² (including about 23m ² of GL (about 4.7% of the Site))
<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>	: Temporary Eating Place and Shop and Services for a Period of 3 Years and Associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary eating place and shop and services for a period of three years and associated 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, ‘Eating Place’ and ‘Shop and Services’ are both Column 2 uses of the “V” zone which require planning permission from the Town Planning Board (the Board). Excavation of land within the “V” zone also requires planning permission from the Board. The Site is currently occupied by an existing restaurant and shops without valid planning permission.
- 1.2 The development involves one single-storey structure (not more than 5m in height) with a gross floor area (GFA) of not more than 450m² for eating place and shop and services uses (**Drawing A-1**). Two private car parking spaces and one light goods vehicle loading/unloading space will be provided within the Site. The eating place and shop and services will be operated from 7:00 a.m. to 11:00 p.m. daily including public holidays. As illustrated on **Drawing A-2**, the development

involves excavation of land of an area of about 28.8m² and a depth of about 0.3m to install surface U-channel for drainage purpose. As shown on **Plan A-2**, the Site is accessible from its northwest via a local access connecting to Mai Po Road.

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

- (a) Application Form with attachments and Supplementary Information (SI) received on 16.5.2023 and 24.5.2023 respectively (**Appendix I**)
- (b) Further Information (FI) received on 29.6.2023* (**Appendix Ia**)
- (c) FI received on 18.7.2023* (**Appendix Ib**)

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

1.4 On 14.7.2023, 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 at **Appendix I** which can be summarised as follows:

- (a) The applied uses are Column 2 uses in the “V” zone on the OZP and the development would benefit the nearby villagers by providing catering service and selling grocery.
- (b) The applied uses are temporary uses for a period of 3 years which would not jeopardise the long term planning intention of the Site.
- (c) The applied uses are not incompatible with the surrounding environment.
- (d) Similar shop and services uses in the same “V” zone have been approved by the Board.
- (e) Insignificant traffic, environmental, noise and drainage impacts are anticipated from the applied uses.

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. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

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 subject to an active planning enforcement action for Unauthorized Development (UD) involving eating place use. Enforcement Notice was issued on 23.5.2023 requiring discontinuation of the UD by 23.7.2023 (**Plan A-2**). The recent site inspection revealed that the UD was still continued. The site condition would be closely monitored under established practice and prosecution action may be followed if considered necessary and appropriate.

6. Previous Application

There is no previous application covering the Site.

7. Similar Application

7.1 During the past five years, there has been one similar application No. A/YL-MP/320 for shop and services use within the same “V” zone on the OZP which was approved by the Committee in 2021 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 the concerns of government departments could be addressed by approval conditions.

7.2 Details of the similar application are summarised at **Appendix III**. Its location is 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 from its northwest via a local access connecting to Mai Po Road;
- (b) currently occupied by an existing restaurant and shops; 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 village

houses and vehicle parks:

- (a) to its north across Mai Po Road is the existing village settlements and residential dwellings of Mai Po San Tsuen and a vehicle park;
- (b) to its immediate south is an open storage yards of construction materials. To its further south and southeast are a retail shop under approved Application No. A/YL-MP/320, vehicle parks and residential dwellings; and
- (c) to its west and northwest are some vehicle parks, vacant land, construction sites and residential dwellings.

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 30.5.2023, 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 temporary eating place and shop and services for a period of three years and associated excavation of land at the “V” zone of the OZP. 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. Although the applied uses are not entirely in line

with the planning intention of the “V” zone, they could meet the local demand for catering service and grocery in the vicinity. District Lands Officer/Yuen Long, Lands Department has no adverse comment on the application and advises that there is no Small House application being processed/approved at the Site. The development would not adversely affect the land availability for village type development within the “V” zone in the long term. In this regard, it is considered that approval of the application on a temporary basis for three years would not jeopardise the long term planning intention of the “V” zone.

- 12.2 According to the applicant, the development involves land excavation of an area of about 28.8m² and a depth of about 0.3m to install surface U-channel for drainage purpose. Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection to the proposed excavation of land.
- 12.3 The applied uses with one single-storey (5m in height) structure are considered not incompatible with the surrounding uses which mainly comprises village houses/residential dwellings and vehicle parks.
- 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 one similar application 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 assessments 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

8.9.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 8.3.2024;
- (b) in relation to (a) 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 8.6.2024;
- (c) 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 8.3.2024;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) if the above planning condition (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; and
- (f) if any of the above planning condition (a), (b) or (c) 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 applied uses are 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 applied uses 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 with attachments received on 16.5.2023 and SI received on 24.5.2023
Appendix Ia	FI received on 29.6.2023
Appendix Ib	FI received on 18.7.2023
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Similar application
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1	Layout plan
Drawing A-2	Land Excavation Plan
Plan A-1	Location plan with similar application
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**