

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/347

<u>Applicant</u>	: Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 2972 in D.D. 104, Yau Mei San Tsuen, Mai Po, Yuen Long
<u>Site Area</u>	: About 223 m 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>	: “Recreation” (“REC”)
<u>Application</u>	: Temporary Shop and Services for a Period of 5 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services for a period of five years and associated filling of land at the application site (the Site) which is zoned “REC” of the OZP (**Plan A-1a**). According to the Notes of the OZP for the “REC” zone, ‘Shop and Services’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently occupied by an existing structure for shop and services use.
- 1.2 The Site is the subject of two previous applications (No. A/YL-MP/279 and 290) for shop and services (electronic goods showroom) use submitted by the current applicant which were both approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of three years on 31.5.2019 and 20.3.2020 respectively. Both of them were revoked on 30.11.2019 and 20.8.2022 respectively due to non-compliance with approval conditions in the implementation of fire service installations (FSIs) and drainage proposals. The applicant has submitted a FSIs proposal and a drainage proposal in support of the current application.

- 1.3 As shown on **Plan A-2**, the Site is accessible from Castle Peak Road – Tam Mi via a local access. According to the applicant, the applied showroom is for display of electronic household goods for customers' information before purchasing them online. No parking spaces nor loading/unloading spaces will be provided within the Site. The layout plan submitted by the applicant is at **Drawing A-1**. As compared with the last application, the changes in development parameters and operation details of the current application are summarized as follows:

	Previous Application No. A/YL-MP/290 (a)	Current Application (b)	Difference (b) – (a)
Site Area (about)	144 m ²	223 m ²	+79 m ²
Total Floor Area (about)	144 m ²	162 m ²	+18 m ²
No. of structure	One single-storey structure (3.5 m in height)	One 2-storey structure (7 m in height)	+1 storey
Operation Hours	9:00 a.m. to 9:00 p.m. from Mondays to Sundays (including public holidays)		No change
No. of Staff	3	5	+2
Estimated Capacity (daily)	Not more than 15 customers		No change
No. of approval years sought	3	5	+2 years

- 1.4 As illustrated on **Drawing A-2**, the development involves filling of land with an area of about 223 m² and a depth of not more than 0.2 m to form a new site level at 4.1 mPD.

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

(a) Application Form with attachments received on (Appendix I)
24.5.2023

(b) Further Information (FI) received on 4.7.2023* (Appendix Ia)

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

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) The Site is the subject of two previous planning approvals (Application No. A/YL-MP/279 and 290) for proposed temporary shop and services (electronic goods showroom) for a period of three years. Approval of the current application would not jeopardize the long term planning intention of the “REC” zone or set an undesirable precedent.
- (b) Regarding the non-compliance with approval conditions of the previous planning approval, the applicant did not have sufficient time to implement the FSIs and drainage proposal after obtaining the Short Term Waiver (STW) approval in early 2023. In the current application, the applicant has submitted a FSIs proposal and a drainage proposal to address departmental comments.
- (c) The Site has uneven site level and has been hard-paved to site level at 4.1mPD and no further filling is required to facilitate the proposed development. The applicant will reinstate the Site to an amenity area after the planning approval period.
- (d) Goods to support the daily operation of the Site are hand-carried to the Site by staff. Hence, no parking and loading/unloading space is provided within the Site. The development is to serve the nearby residents and locals, and visitors will access the Site by walking. No adverse traffic impact is expected.
- (e) The applicant will strictly comply with all environmental protection/pollution control ordinances. The applicant will also follow relevant mitigation measures and requirements stipulated in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the adverse environmental impacts on the adjacent area.

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 Applications

- 6.1 The Site is the subject of two previous applications (No. A/YL-MP/279 and 290) for the same shop and services (electronic goods showroom) use submitted by the current applicant which were both approved with the Committee for a period of three years on 31.5.2019 and 20.3.2020 respectively mainly on the considerations that the proposed use would not frustrate the long term planning intention of the “REC” zone; the proposed development was considered not incompatible with the surrounding land uses and the rural character of the area; and adverse impacts on the surrounding area were not anticipated. Both of them were then revoked on 30.11.2019 and 20.8.2022 respectively due to non-compliance with approval conditions on implementation of drainage and FSIs proposals.
- 6.2 Details of the applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1b**.

7. Similar Application

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

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

- 8.1 The Site is:
- (a) accessible from its east via a local access connecting to Castle Peak Road – Tam Mi;
 - (b) currently paved and occupied by the applied shop and services use for display of electronic household goods; and
 - (c) located within the Wetland Buffer Area (WBA) of Deep Bay Area.
- 8.2 The surrounding areas are rural in character predominated by residential dwellings, storage yards, vehicle parks, vacant land and agricultural land:
- (a) to its north are the existing village houses and residential dwellings of Yau Mei San Tsuen, a rehabilitation centre under approved Application No. A/YL-MP/327 and a plant nursery;
 - (b) to its northwest and west are vacant land, grass land and agricultural land;
 - (c) to its immediate south is vacant land. To its further south are Yau Pok Road, a nullah and the “Village Type Development” zone; and
 - (d) to its immediate east is a cycling track. To its further east across Castle Peak Road – Tam Mi are open storage yards for construction materials and machinery, a vehicle park and a restaurant.

9. Planning Intention

The planning intention of the “REC” zone is 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

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 Comments Received During Statutory Publication Period

On 6.6.2023, the application was published for public inspection. During the statutory publication period, three public comments were received from individuals objecting to/raising concerns that the proposed development would result in adverse traffic impact; create nuisance to the nearby residents; and the previous planning approval was revoked due to non-compliance with approval conditions by the applicant. (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary shop and services for a period of five years and associated filling of land. The planning intention of the “REC” zone is 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. Although the applied use is not in line with the planning intention of the “REC” zone, the approval of the application on a temporary basis for five years would not frustrate the long-term intention of the “REC” zone.
- 12.2 According to the applicant, the development involves land filling of not more than 0.2 m in depth of the entire Site (about 223 m²) to 4.1mPD with a layer of concrete to facilitate the applied development. It is noted that the applied land filling works has been carried out under the previous approved application No. A/YL-MP/290 and no further filling of land is required. CTP/UD&L considers that as compared to the last approved application, there is no significant change in the building footprint of the 2-storey structure and she has no objection to the current application.
- 12.3 In addition, as claimed by the applicant, the applied shop and services use could serve the nearby residents and locals. The applied use with a 2-storey (about 7 m in height) structure is small in scale and is not incompatible with the surrounding uses which mainly comprises residential dwellings, storage yards, vehicle parks, vacant land and agricultural land.

- 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. DAFC has no comment on the application from nature conservation point of view.
- 12.5 Relevant government departments including C for T, DEP, D of FS and CE/MN of DSD have no objection to or no adverse comment on the application. Should the application be approved, technical requirements of the concerned departments are suggested to be imposed through approval conditions in paragraph 13.2 below. Besides, the applicant should be advised to follow latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to mitigate any potential environmental impacts on the surrounding areas.
- 12.6 The Site is the subject of two approved previous applications (No. A/YL-MP/279 and 290) for the same temporary shop and services (electronic goods showroom) use which were submitted by the current applicant for a period of three years respectively. Nevertheless, both applications were revoked on 30.11.2019 and 20.8.2022 respectively due to non-compliance with approval conditions. In this regard, the applicant stated that he had complied with the conditions regarding the FSIs proposal and drainage submission. The non-compliance of other approval conditions was due to insufficient time to implement the relevant proposals after obtaining the approval of STW. In support of the current application, the applicant submitted a FSIs proposal and a drainage proposal which are considered acceptable by D of FS and CE/MN, DSD. Hence, it is considered that sympathetic consideration could be given to the current application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given to any further application. Approval of the current application on a temporary basis for a period of five years is generally in line with the previous decisions of the Committee.
- 12.7 There are three public comments raising objection to/concerns on the application as stated in paragraph 11. The departmental comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, 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 5 years until 14.7.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:00 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 implementation of the accepted 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 14.1.2024;
- (d) 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 14.1.2024;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) if any of the above planning condition (a), (b) or (e) 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;
- (g) if any of the above planning condition (c) or (d) 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
- (h) 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**.

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

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. No strong planning justification has been given 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 with attachments received on 24.5.2023
Appendix Ia	FI received on 4.7.2023
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
Drawing A-2	Land Filling Plan
Plan A-1a	Location plan
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2023**