

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/351

<u>Applicant</u>	: Mr. MAN Kwok Cheung
<u>Site</u>	: Lot 2873 in D.D. 104, Mai Po, Yuen Long
<u>Site Area</u>	: 466.66m 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>	: “Open Space” (“O”)
<u>Application</u>	: Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services (real estate agency) for a period of three years at the application site (the Site) which falls within an area zoned “O” on the approved Mai Po & Fairview Park OZP No. S/YL-MP/6 (**Plan A-1**). According to the Notes of the OZP for “O” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use.
- 1.2 The Site is the subject of 12 previously approved applications mainly for shop and services (real estate agency) and office use. The last application No. A/YL-MP/298 submitted by the current applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 21.8.2020 for a period of three years and the planning permission lapsed on 21.8.2023. The major parameters of the current application are the same as the last apparition.
- 1.3 The development involves three single-storey structures (2-2.8m in height) with a total gross floor area (GFA) of 91.76m² for office, conference room and

washroom uses (**Drawing A-1**). Five private car parking spaces will be provided within the Site. The real estate agency will be operated from 9:00 a.m. to 6:00 p.m. daily. As shown on **Plan A-2**, the Site is accessible at its east from Castle Peak Road – Tam Mi via a local access.

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

(a) Application Form with attachments received on (**Appendix I**)
28.6.2023

(b) Further Information (FI) received on 14.8.2023* (**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 with attachments and FI at **Appendices I and Ia**, which can be summarised as follows:

- (a) The applicant states that the Site has been used for the applied use in the past three years under previous application No. A/YL-MP/299 which lapsed on 22.8.2023.
- (b) There is no adverse drainage impact as well as no pollution, noise nuisance and disturbance to surrounding area.
- (c) No adverse traffic impact on the adjacent road network including Palm Springs Boulevard is anticipated.
- (d) The applicant has made every effort to comply with all approval conditions and succeeded in obtaining planning permission several times.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner” of the private land within the Site. 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 12 previously approved applications mainly for shop and services (real estate agency) and office use.
- 6.2 Five applications (No. A/YL-MP/23, 50, 68, 95 and 108) submitted by different applicants mainly for temporary office or temporary shop and services (real estate agency) uses were approved with conditions by the Committee for periods of 12 months or three years between 1997 and 2002 mainly on the considerations that the developments being temporary in nature would unlikely have any significant adverse impacts on the surroundings and the developments were not incompatible with the surroundings.
- 6.3 The remaining seven applications (No. A/YL-MP/142, 164, 175, 201, 233, 258 and 298) submitted by the current applicant for temporary shop and services (real estate agency) were approved with conditions by the Committee for a period of three years between 2005 and 2020 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “O” zone; the proposed use was considered not incompatible with the surrounding land uses; and relevant departments had no objection to or no adverse comments on the application or their technical concerns could be addressed by relevant approval conditions. Applications No. A/YL-MP/164 and 201 were revoked in 2008 and 2013 respectively due to non-compliance with approval conditions. For applications No. A/YL-MP/142, 175, 233, 258 and 298, all approval conditions had been complied with.
- 6.4 Details of the previous applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

7. Similar Applications

- 7.1 During the past five years since 2018, there have been 13 similar applications for shop and services use within the same “O” zone on the OZP which were approved by the Committee on the considerations as stated in paragraph 6.3 above.
- 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 its east from Castle Peak Road – Tam Mi via a local access;
 - (b) currently paved and used for the applied use without valid planning permission; and

(c) located within the Wetland Buffer Area (WBA) of Deep Bay Area.

8.2 The surrounding areas are rural in character intermixed with residential dwellings, open storage yards and ponds:

- (a) to its north across Palm Springs Boulevard are a restaurant under approved application No. A/YL-MP/299, a real estate agency under approved application No. A/YL-MP/325 and an open storage yard for construction materials;
- (b) to its east are Castle Peak Road – Mai Po, San Tin Highway and San Tin Road;
- (c) to its south are open storage yards, residential dwellings, plant nurseries and a pond; and
- (d) to its immediate west is a metal retail shop under approved application No. A/YL-MP/319 and across Palm Canyon Drive is the residential development of Royal Palms.

9. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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 7.7.2023, the application was published for public inspection. During the statutory publication period, three public comments were received from Owners’ Committee of Royal Palm and Palm Springs objecting to the application mainly on the grounds that the proposed development would result in adverse traffic impact and create road safety problem (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for temporary shop and services (real estate agency) for a period of three years. The planning intention of the “O” zone is primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Although the

applied use is not entirely in line with the planning intention of the “O” zone, Director of Leisure and Cultural Services advises that there is no plan to develop the Site into a public open space at present and has no objection to the application. Approval of the application on a temporary basis for three years would not frustrate the long-term intention of the “O” zone.

- 12.2 The applied use which includes three single-storey structures with a total GFA of 91.76m² is considered not incompatible with the surrounding land uses which mainly comprise residential dwellings, shops and open storage yards.
- 12.3 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.
- 12.4 The proposed use would unlikely cause significant adverse impacts. There are no adverse comments from concerned government departments, including Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design and Landscape, Planning Department. Technical requirements of the concerned departments 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.
- 12.5 The Site is the subject of 12 previous applications approved for similar/same uses. The last Application No. A/YL-MP/298 for the same use submitted by the same applicant was approved by the Committee on 21.8.2020 and the planning permission lapsed on 21.8.2023. All approval conditions had been complied with. Since 2018, the Committee has approved a total of 13 similar applications for temporary shop and services uses within the same “O” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There are three public comments raising objection to 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 3 years until 25.8.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing trees and vegetation on site should be maintained at all times during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) the maintenance of existing drainage facilities on the Site at all times during the planning approval period;
- (f) if any of the above planning condition (a), (b), (c), (d) 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;

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 "O" zone is intended primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. 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 28.6.2023
Appendix Ia	FI received on 14.8.2023
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout plan
Plan A-1	Location plan with similar applications and previous application
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2023**