

RNTPC Paper No. A/YL-NSW/308
For Consideration by the
Rural and New Town
Planning Committee
on 19.5.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/308

<u>Applicant</u>	: Golden Mong Company represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	: Lot 3250 S.B ss.49 (Part) in D.D. 104 and adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: About 80 m ² (including 50 m ² of GL)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
<u>Zoning</u>	: “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) [Restricted to a maximum plot ratio of 0.4 and a maximum building height of 6 storeys including car park]
<u>Application</u>	: Proposed Temporary Shop and Services (Convenience Store) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (convenience store) for a period of 3 years (**Plan A-1**). According to the Notes of “OU(CDWRA)” zone of the OZP, ‘Shop and Services’ is a Column 2 use which require planning permission from the Town Planning Board (the Board). The Site is mainly hard-paved and currently partly occupied by a container-converted structure (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-NSW/284) approved for the same temporary use for a period of 3 years and submitted by the same applicant, which was approved by the Committee on 5.2.2021. However, the application was revoked on 5.5.2023 due to non-compliance with approval

conditions on submission and implementation of drainage proposal and implementation of fire service installations (FSIs) proposal.

- 1.3 According to the site plan and layout plan (**Drawings A-1 and A-2**), the Site is accessible from Fairview Park Boulevard via a local access. The proposed development involves a single-storey structure (not exceeding 3m in height) with a total gross floor area of about 80m² at the Site. No parking space or loading/unloading space is provided within the Site. The operation hours will be from 9:00 a.m. to 6:00 p.m daily (including public holidays).
- 1.4 As compared with the previously approved application No. A/YL-NSW/284, the current application is the same in terms of the proposed use, site area/boundary, site layout and development parameters.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 21.2.2023 (**Appendix I**)
 - (b) Further Information (FI) received on 24.3.2023 (**Appendix Ia**)

2. Justifications from the Applicant

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

- (a) The proposed temporary shop and services (convenience store) can serve the local residents nearby. There are various shop and services uses within the same “OU(CDWRA)” zone, the proposed development is considered compatible with the surrounding environment.
- (b) The Site involves a previously approved application No. A/YL-NSW/284. The applicant has applied to Lands Department (LandsD) for Short Term Waiver (STW) and Short Term Tenancy (STT) for the proposed use but are still under processing. Thus, approval conditions cannot be complied with. The temporary structure will be erected in accordance with the restrictions imposed under the STW and STT.
- (c) Replenishment of goods will be carried out during non-peak hours in the daytime and no replenishment of goods will be carried out in the night-time.

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

The applicant is not the “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 the GL portion of the Site, the “Owner’s Consent/Notification” Requirements are not applicable.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C) are relevant to this application. The Site falls within the Wetland Buffer Area (WBA) of the TPB PG-No. 12C and relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to active planning enforcement action. Follow-up investigation will be taken if the current application is not approved by the Board.

6. Previous Application

The Site is the subject of a previous application (No. A/YL-NSW/284) for proposed temporary shop and services (convenience store) approved by the Committee for a period of 3 years on 5.2.2021. The application was approved mainly on the considerations that the proposed development could provide services to local residents and was considered not incompatible with surrounding land uses, and it would unlikely cause significant adverse impacts on the area. The application was subsequently revoked on 5.5.2023 due to non-compliance with approval conditions on submission and implementation of drainage proposal and implementation of FSIs proposal. Details of the application is summarised in **Appendix III**. The location is shown on **Plan A-1**.

7. Similar Application

There is a similar application (No. A/YL-NSW/298) for temporary shop and services use within the subject “OU(CDWRA)” zone on the OZP (**Plan A-1**). The application was approved by the Committee in 2022 on considerations that the development would not frustrate the long term planning intention of the “OU(CDWRA)” zone and was not incompatible with the surrounding land uses; and the development would unlikely generate any adverse impacts. Details of the application is summarised in **Appendix III**. The 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) hard-paved with a container-converted structure;
- (b) accessible by a local access branching off from Fairview Park Boulevard; and
- (c) within the WBA under the TPB PG-No. 12C.

8.2 The surrounding areas have the following characteristics:

- (a) to its east across Yau Pok Road is a drainage channel and further east across the drainage channel are the residential dwellings in Man Yuen Chuen;
- (b) to its south are some residential dwellings, a vehicle park, open storage yards and a site for temporary eating place (restaurant) with valid planning application No. A/YL-NSW/311;
- (c) to its west across a local track are Wong Chan Sook Ying Memorial School, storage use, a vehicle park and a site for temporary shop and services with valid planning application No. A/YL-MP/324; and to its further west are residential development of Fairview Park; and
- (d) to its north are vacant land, plant nursery and the Fairview Park Boulevard.

9. Planning Intention

The “OU(CDWRA)” zone is intended to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. Any new building should be located farthest away from Deep Bay. For application for uses developed individually and not forming part of a comprehensive development scheme, the requirement of the provision of wetland restoration proposal could be exempted.

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 28.2.2023, the application was published for public comment. During the statutory public inspection period, one public comment was received (**Appendix VI**) from an individual objecting to/raising concerns on the application on the grounds that approval conditions of the previous application were not complied with and more than 50% of the Site is GL.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (convenience store) for a period of 3 years at the Site which is located at the fringe of the “OU(CDWRA)” zone. The planning intention of the “OU(CDWRA)” zone is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. Although the proposed temporary convenience store is not entirely in line with the planning intention of the “OU(CDWRA)” zone, it could provide services to local residents in the area. There is no known long-term development for the Site, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “OU(CDWRA)” zone.
- 12.2 The Site is located at the fringe of the “OU(CDWRA)” zone and within a short distance from the Fairview Park Boulevard. It is considered not incompatible with the surrounding land uses including the residential developments at Man Yuen Chuen and Fairview Park as well as the temporary eating place and shops and services uses approved in its vicinity.
- 12.3 According to the TPB PG-No. 12C, the Site falls within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have off-site disturbance impact on the ecological value of fish ponds. Since the proposed use is only temporary in nature, the requirement of Ecological Impact Assessment submission can be exempted. The Director of Agriculture, Fisheries and Conservation has no comment on the application.
- 12.4 In view of the nature and small-scale of the convenience store, it is unlikely to cause adverse traffic, environmental, drainage and landscape impacts on the area. In this regard, there are no adverse comments from the concerned departments including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Chief Town Planner/Urban Design and Landscape, Planning Department. Should the application be approved, technical requirement of CE/MN, DSD and

Director of Fire Services can be addressed by imposing approval conditions recommended in paragraph 13.2 below.

- 12.5 As detailed in paragraph 6, the Committee has approved a previous application No. A/YL-NSW/284 for the same use at the Site submitted by the same applicant in 2021. As compared with the previous application, there is no change to the development proposal. There has been no material change in the planning circumstances since the planning permission was granted in 2021. Approval of the current application is in line with the previous decision of the Committee. While the previous application (No. A/YL-NSW/284) was revoked on 5.5.2023 due to non-compliance with approval conditions related to the submission and implementation of drainage proposal and implementation of FSIs proposal, the applicant has submitted a drainage proposal and FSIs proposal in support of the current application and no adverse comment has been received from relevant departments. Should the Committee decide to approve the application, the applicant will be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given by the Committee to any further application.
- 12.6 Regarding the public comment received during the statutory public inspection period of the application as detailed in paragraph 11, the planning assessment and departmental comments 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 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 19.5.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised 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 19.11.2023;
- (b) the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 19.2.2024;

- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 19.11.2023;
- (e) if the above planning condition (c) 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 (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.

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 development is not in line with the planning intention of the "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" zone which is intended to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong justification 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 renewal of the planning 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.

Attachments

Appendix I	Application form received on 21.2.2023
Appendix Ia	FI received on 24.3.2023
Appendix II	Extract 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 comment
Drawing A-1	Site plan
Drawing A-2	Layout plan
Plan A-1	Location plan with previous application
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MAY 2023**