

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/311

<u>Applicant</u>	: Gala Growth Co. Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 3719 S.G ss. 9 RP (Part) and 3719 S.G ss.10 (Part) in D.D.104, Nam Sang Wai, Yuen Long
<u>Site Area</u>	: About 840 m ²
<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>	: Renewal of Planning Approval for Temporary Eating Place (Restaurant) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for a temporary restaurant at the application site (the Site) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for “OU(CDWRA)” zone, ‘Restaurant’ is subsumed under ‘Eating Place’ which is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission under Application No. A/YL-NSW/279.
- 1.2 The Site is the subject of 11 previous applications. The last application No. A/YL-NSW/279, for the same applied use in the same structures submitted by the same applicant, was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 10.7.2020 for a period of 3 years until 22.7.2023. All approval conditions including those in relation to the submission of condition record of existing drainage facilities and

submission/provision of fire services installations (FSIs) have been complied with.

- 1.3 According to the site plan (**Drawing A-1**) submitted by the applicant, the proposed restaurant together with staff quarters are accommodated within an existing New Territories Exempted House (NTEH) and 3 temporary structures. Vehicular access to the Site is via a local track connecting to Fairview Park Boulevard. The major parameters of the current application are the same as the last approved Application No. A/YL-NSW/279. They are summarised below:

Total Floor Area	869m ²
Building/Structure	An existing NTEH and 3 temporary structures
Building Height	NTEH: 3 storeys (8.23m) 3 structures : 1-2 storeys (2.43m to 5.48m)
No. of Loading/unloading Bay	1
Operation Hours	7:30am to 10pm
Uses by Floor:	
G/F	Restaurant, kitchen, lavatories, storage, loading/unloading bay;
1/F	Staff quarters/rest area
2/F	Staff quarters

- 1.4 In support of the application, the applicant has submitted the application form with attachments, which was received by the Board on 13.3.2023. (**Appendix I**)

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**. They are summarised as follows:

- (a) There is no change to the existing structures and the use remains unchanged as 'Eating Place (Restaurant)' as the previous planning approval (No. A/YL-NSW/279). The Site is the subject of several approved applications for the same use. Approval of the current application would not set an undesirable precedent within the "OU(CDWRA)" zone.
- (b) The restaurant is not incompatible with the surrounding areas which are predominated by residential and commercial developments. The temporary restaurant is small in scale and the renewal of planning approval for a period of 3 years will not cause adverse impact to the surrounding environment.
- (c) The restaurant will continue to provide catering services to the local residents, workers and visitors.
- (d) The renewal application is in line with the Town Planning Board Guidelines No. 34D in that there is no adverse planning implication arising from the renewal of the planning approval and the applicant has complied with all approval conditions of

the previous application. The accepted fire service installations proposal and records of existing drainage facilities of the previous application were submitted to support the current application.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C) and “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34D) are relevant to this application. The Site falls within the Wetland Buffer Area (WBA) of the TPB PG-No. 12C and relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is not a subject of any active planning enforcement action.

6. Previous Applications

- 6.1 The Site is the subject of 11 previous applications (No. A/DPA/YL-NSW/4, A/YL-NSW/20, 40, 66, 111, 174, 193, 208, 228, 256 and 279) (**Plan A-1**). The first application (No. A/DPA/YL-NSW/4) was approved for an NTEH (Small House) while the subsequent ten applications (A/YL-NSW/20, 40, 66, 111, 174, 193, 208, 228, 256 and 279) were all approved for restaurant use. Details of these applications are summarized at **Appendix III**.
- 6.2 Application No. A/DPA/YL-NSW/4 for an NTEH (Small House) covering only Lot 3719s.G ss.10 under the then “Unspecified Use” (“U”) zone was approved with conditions by the Committee on 15.11.1991. Subsequent to the approval, a Building Licence (BL) was granted on 22.12.1992 and a Small House was subsequently erected.
- 6.3 The Site was rezoned to “Recreation” (“REC”) on the draft Nam Sang Wai OZP No. S/YL-NSW/1 in 1994. Applications No. A/YL-NSW/20, 40 and 66 for temporary restaurant use was approved by the Committee between 1997 and 1999. All the approval conditions of these planning permissions were complied with.
- 6.4 In 2000, the Site was rezoned to “OU(CDWRA)” on the draft Nam Sang Wai OZP No. S/YL-NSW/2. Seven applications for the same restaurant use under the “OU(CDWRA)” zone were approved for a period of 3 years each between 2002 to 2020. The last application No. A/YL-NSW/279 was approved with conditions by the Committee on 10.7.2020 for 3 years until 22.7.2023. All the approval

conditions including those in relation to the submission of condition record of existing drainage facilities and submission/provision of FSIs had been complied with.

7. Similar Applications

There is no similar application within the same “OU(CDWRA)” zone on the OZP.

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

8.1 The Site is:

- (a) currently occupied by 4 structures and used as a restaurant with valid planning permission;
- (b) accessible by a local track branching off from Fairview Park Boulevard (both are private roads); 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 and open storage yards;
- (c) to its northwest across a local track is Wong Chan Sook Ying Memorial School and further north west are houses in Fairview Park within the “R(C)” zone;
- (d) to its north are storage and office use and a Site for temporary shop and services with valid planning application No. A/YL-MP/324 and to its further north are vehicle park and plant nursery; and
- (e) to its northeast are vacant land and a Site for proposed temporary shop and services (convenience store) with valid planning application No. A/YL-NSW/284.

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 24.3.2023, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 14.4.2023, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of a planning approval under application no. A/YL-NSW/279 for a temporary restaurant accommodated in an existing NTEH and three temporary structures for a further period of 3 years. The Site is located at the fringe of the “OU(CDWRA)” 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. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. While the temporary restaurant development at the Site is not entirely in line with the planning intention of the “OU(CDWRA)” zone, it could provide catering services to local residents, workers as well as visitors in the area, and is considered not incompatible with the surrounding land uses including residential developments at Man Yuen Chuen and Fairview Park. There is also no known long-term development for the Site.
- 12.2 The renewal application is in line with the TPB PG-No. 34D in that there has not been material change in planning circumstances since the previous approval was granted; there is no adverse planning implication arising from the renewal of the planning approval; and the applicant has complied with all approval conditions, including submission of condition record of existing drainage facilities and submission/implementation of FSIs; and the 3-year approval period sought is not unreasonable.
- 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 applied 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 renewal application.
- 12.4 In view of the nature and small-scale of the restaurant, 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), Director of Fire Services (D of FS) and Chief Town Planner/Urban Design and Landscape, Planning Department. Should the application be approved, technical requirement of CE/MN, DSD and D of FS can be addressed by imposing approval conditions recommended in paragraph 13.2 below.

- 12.5 The Committee has approved 10 previous applications for temporary restaurant use at the Site since 1997. The last application (No. A/YL-NSW/279) for temporary restaurant use at the Site submitted by the same applicant was approved by the Committee on 10.7.2020. Approval of the current renewal application is in line with the Committee's previous decisions.

13. Planning Department's Views

- 13.1 Based on the assessment in paragraph 12 above, 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, and be renewed from 23.7.2023 until 22.7.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Board by **23.10.2023**;
- (d) the implementation of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of Director of Fire Services or of the Board by **23.1.2024**;
- (e) if any of the above planning condition (a) or (b) 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 (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.

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' consideration:

The continued occupation of the Site for restaurant use 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 are no strong planning grounds to justify 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 13.3.2023
Appendix II	Extracts of TPB PG-Nos. 12C and 34D
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawings A-1 and A-2	Layout Plans
Plan A-1	Location Plan with previous applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2023**