

RNTPC Paper No. A/YL-NSW/317B  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 26.1.2024

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

**APPLICATION NO. A/YL-NSW/317**

- Applicant** : Top Grow (HK) Development Limited represented by R-riches Property Consultants Limited
- Site** : Lots 3540 S.B ss.1 (Part), 3540 S.B ss.2, 3540 S.B ss.3, 3540 S.B ss.4, 3540 S.B ss.5, 3540 S.B ss.6 (Part), 3540 S.B RP (Part), 3559 S.A, 3559 S.B and 3559 RP in D.D. 104, Pok Wai, Yuen Long, New Territories
- Site Area** : About 1,023m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
- Zoning** : “Village Type Development” (“V”)  
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Filling of Land for Permitted Houses (New Territories Exempted Houses)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed filling of land for permitted houses (New Territories Exempted Houses (NTEHs)) at the application site (the Site), which falls within an area zoned “V” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘House (NTEH only)’ is a Column 1 use which is always permitted while filling of land requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and partly covered with vegetation.
- 1.2 The Site is accessible to Castle Peak Road - Tam Mi via a local access, with its entrance located at the east (**Plan A-2**). According to the proposal, the entire Site will be filled with concrete of not more than 1.24m in depth, forming a new site level at +5.04mPD to facilitate the development of eight NTEHs. Compared with the previously approved application (No. A/YL-NSW/310), the current application involves reduction in site area from 1,131m<sup>2</sup> to 1,023m<sup>2</sup> (-108m<sup>2</sup> or -9.5%) and increase of proposed site level from +4.4mPD to +5.04mPD (+0.64m)

for implementation of the proposed drainage facilities for the eight NTEHs. The proposed filling works are anticipated to be completed by April 2024. The access plan, layout plan and section plans are at **Drawings A-1 to A-4**.

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

- |     |   |                      |
|-----|---|----------------------|
| (a) | Application Form received on 20.6.2023                      | <b>(Appendix I)</b>  |
| (b) | Further Information (FI) received on 20.9.2023 <sup>#</sup> | <b>(Appendix Ia)</b> |
| (c) | FI received on 11.1.2024 <sup>#</sup>                       | <b>(Appendix Ib)</b> |
| (d) | FI received on 22.1.2024 <sup>#</sup>                       | <b>(Appendix Ic)</b> |
- <sup>#</sup> exempted from publication requirement*

1.4 On 11.8.2023 and 10.11.2023, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's requests to defer making a decision on the application each for a period of two months to allow more time for the applicant to prepare FI in support of the application.

## **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) The Site falls within "V" zone on the OZP and development of NTEHs is always permitted. The proposed filling of land for development of NTEHs is considered in line with the planning intention of the "V" zone.
- (b) The Site is slopping from the north to the south with approximate site level of +3.8mPD to +4.96mPD. Site formation works involving filling of land are required to create a flat surface for development of NTEHs.
- (c) The Site is the subject of a previously approved application for the same use. The current application involves increase in depth of filling but reduction in filling area. During the preparation of drainage proposal by the applicant for compliance with the approval condition on submission of drainage proposal for the previously approved application, it was found in topographic survey that the maximum existing site level is about +4.96mPD, and the approved depth of filling (with site level of +4.4mPD) is insufficient to facilitate the proposed drainage facilities at the Site. Thus, minor increase in depth of land filling (with site level of +5.04mPD; i.e. +0.64m as compared to the previous approved landing filling depth) is required to facilitate the implementation of drainage facilities.
- (d) Given the scale and nature of the proposal, adverse traffic impacts are not anticipated. The applicant will follow the relevant government code of practices to minimise possible nuisances and adverse impacts.

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

The applicant is not a “current land owner” of the Site 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**

According to the Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C), a minor portion of the Site (about 87m<sup>2</sup> or 8.5%) falls within the Wetland Buffer Area (WBA) (**Plan A-2**). The relevant extract of the Guidelines is attached 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-NSW/57 and 310). Details of the applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-NSW/57 for temporary open storage of vehicles for sale and machineries for 12 months was rejected by the Committee in 1999, and is not relevant to the current application. Application No. A/YL-NSW/310 for the same proposed filling of land was approved by the Committee on 5.5.2023 mainly on the considerations that the proposal was not excessive and was compatible with the surrounding areas, it would unlikely cause significant adverse impacts on the area and concerned departments had no adverse comments on it.

### 7. **Similar Applications**

- 7.1 During the past five years, there were two similar applications (No. A/YL-NSW/305 and 318) for proposed temporary public vehicle park (PVP) (excluding container vehicle) and associated filling and/or excavation of land within the same “V” zone on the OZP. The associated filling of land for the proposed use of the two similar applications is relevant to the current application. The applications were approved by the Committee on 23.12.2022 and 27.10.2023 respectively mainly on the considerations that the proposed land filling would not cause significant adverse impacts on the area.
- 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-4b)**

8.1 The Site is:

- (a) mainly vacant and covered with vegetation;
- (b) accessible from Castle Peak Road – Tam Mi; and
- (c) with a minor part (about 8.5%) within the WBA under the TPB PG-No. 12C.

8.2 The surrounding areas are rural in character intermixed with residential dwellings, open storage/storage yards, grass land and ponds. A site for proposed temporary public vehicle park (excluding container vehicle) with ancillary electric vehicle charging facility and office and associated filling of land with valid planning permission (No. A/YL-NSW/318) is located to the immediate west of the Site.

## **9. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses (SHs) 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board.

## **10. Comments from Relevant Government Departments**

10.1 The following Government departments and bureau have been consulted and their views on the application are summarised as follows:

### **Land Administration**

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) He has no objection to the application.
- (b) According to his records, 8 SH applications in respect of Lot Nos. 3540 S.B ss.1, 3540 S.B ss.2, 3540 S.B ss.3, 3540 S.B ss.4, 3540 S.B ss.5, 3540 S.B ss.6, 3559 S.A and 3559 S.B all in D.D. 104 within the Site have been received.

## **Environment**

### 10.1.2 Comment of the Director of Environmental Protection (DEP):

- (a) He has no objection to the application from environmental planning perspective.
- (b) The applicant is advised to follow the Recommended Pollution Control Clauses for Construction Contracts to minimize the environmental impacts during construction stage.
- (c) It is the applicant's responsibility to comply with all relevant environmental legislations during construction of the project.
- (d) There was no substantiated environmental complaint received at the Site in the past three years.

## **Drainage**

### 10.1.3 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, conditions should be stipulated requiring the applicant (i) the submission of a revised drainage proposal; and (ii) the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or the Town Planning Board.

### 10.2 The following government departments have no objection to or no comment on the application and their advisory comments (if any) are provided in **Appendix IV**:

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Commissioner for Transport (C for T);
- (c) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (d) Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (g) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (h) Director of Agriculture, Fisheries and Conservation (DAFC);
- (i) Director of Fire Services (D of FS);
- (j) Director of Electrical and Mechanical Services (DEMS);
- (k) Commissioner of Police; and

- (l) District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD).

## **11. Public Comments Received During Statutory Publication Period**

On 30.6.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for proposed filling of land for permitted houses (NTEHs) at the Site within the “V” zone. The planning intention of “V” zone is primarily intended for development of SHs by indigenous villagers and development of NTEH is always permitted within the “V” zone, while filling of land within “V” zone is subject to planning permission as it may cause adverse drainage impacts on the adjacent areas. According to the applicant, the proposed filling of land of not more than 1.24m is to facilitate the development of eight NTEHs within the “V” zone. It is noted that a total of eight SH applications at the Site were received by DLO/YL, LandsD.
- 12.2 The proposed filling of land of not more than 1.24m can provide a flat surface of about +5.04mPD for the development of NTEHs. The Site is the subject of a previously approved application (No. A/YL-NSW/310) for the same proposed filling of land and the current application involves an increase in the depth of filling but a reduction in the filling area. The applicant claims that during the preparation of drainage proposal, the depth of filling previously approved was found insufficient to provide the proposed drainage facilities. As such, an additional land filling (i.e. +0.64m from +4.4mPD to +5.04mPD) is required. The Site is currently situated in an area with different site levels ranging from +2.6mPD to +7.3mPD with residential dwellings, grassland and PVP. The proposed land filling to provide a levelled site platform is considered not excessive as its formation level is comparable to the surrounding area.
- 12.3 A minor portion of the Site (about 8.5%) falls within the WBA. According to TPB-PG No. 12C, the WBA is intended to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area and prevent development that would have off-site disturbance impact on the ecological value of fish ponds. DAFC has no comment on the application from nature conservation point of view.
- 12.4 The proposed land filling would unlikely cause significant adverse impacts on the area. CE/MN, DSD has no objection in principle to the proposed filling of land from public drainage point of view. DEP has no objection to the application and reminds the applicant’s responsibility to comply with all relevant environmental legislations during the construction of the project, and the applicant is also advised to follow the Recommended Pollution Control Clauses for Construction Contracts to minimise the environmental impacts during the construction stage. There are no adverse comments from other concerned departments including C for T, D of FS and CTP/UD&L, PlanD from traffic, fire safety and landscape

perspectives. Should the application be approved, technical requirements of CE/MN of DSD can be addressed by imposing the approval conditions recommended in paragraph 13.2 below.

### **13. Planning Department's Views**

- 13.1 Based on the assessment in paragraph 12 and having taken 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 until 26.1.2028, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) the submission of a drainage proposal before the commencement of the land filling works on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the implementation of the drainage proposal upon completion of the land filling works on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) if any of the above planning condition (a) or (b) is not complied with, 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 IV**.

- 13.3 There is no strong reason to recommend rejection of the application.

### **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 date when the validity of the permission should expire.
- 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**

<b>Appendix I</b>	Application Form with attachments received on 20.6.2023
<b>Appendix Ia</b>	FI received on 20.9.2023
<b>Appendix Ib</b>	FI received on 11.1.2024
<b>Appendix Ic</b>	FI received on 22.1.2024
<b>Appendix II</b>	Extract of TPB PG-No. 12C
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Access Plan
<b>Drawing A-2</b>	Layout Plan
<b>Drawings A-3 and A-4</b>	Sections showing filling of land
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2024**