

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

**APPLICATION NO. A/YL-NTM/420**

<b><u>Applicant</u></b>	: Mr. TSO Wai Yan <sup>1</sup>
<b><u>Site</u></b>	: Lots 963 and 956 (Part) in D.D. 104 and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
<b><u>Site Area</u></b>	: About 2,813 m <sup>2</sup> (including 2,296m <sup>2</sup> (about 81.6%) of GL)
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. A/YL-NTM/12
<b><u>Zoning</u></b>	: “Comprehensive Development Area” (“CDA”)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Fish Farming for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of the planning permission to use the application site (the Site) for temporary fish farming for a period of 3 years. The Site comprises three parcels of land (i.e. Portions A, B and C) (**Plan A-2**), and falls within an area zoned “CDA” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1a**). The applied use is neither a Column 1 nor Column 2 use within the “CDA” zone. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently occupied by the applied use with planning permission (No. A/YL-NTM/367).
- 1.2 The Site is the subject of 4 previous applications (No. A/YL-NTM/244, 277, 318 and 367) for the same applied use with a similar layout, submitted by another applicant. The last application (No. A/YL-NTM/367) covering a larger site was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 18.5.2018 for a period of 3 years. All approval conditions have been

---

<sup>1</sup> The current applicant is the authorised representative of the applicant of the last application (No. A/YL-NTM/367) covering a larger site.

complied with. The planning permission will lapse on 19.5.2021.

- 1.3 According to the layout plan (**Drawing A-1**) submitted by the applicant, the Site is accessible from a local access off Ngau Tam Mei Road. A total of 6 existing one-storey (not more than 3m high) structures with a total floor area of about 578.8m<sup>2</sup> have been erected on the Site for fish farming (including 4 structures for office/fish pond, storages and toilet in Portion A; 1 structure for storage and staff resting area in Portion B; and 1 structure as briefing room in Portion C). The Site provides 3 private car parking spaces, 1 light goods vehicle (LGV) parking space and 1 loading/unloading space for LGV not exceeding 5.5 tonnes. The operation hours of the fish farm are between 9:00 a.m. and 6:00 p.m. daily (including public holidays).
- 1.4 The current application is largely the same as the last approved application (No. A/YL-NTM/367) except for the reduction in site area from 3,808.8m<sup>2</sup> to 2,813m<sup>2</sup> (-26.1%) as the southern part of Portion A and a pond in the last application have been excluded in the current application (**Drawing A-1**). There is no change in terms of applied use, the number and height of the structures retained in the current application, number of parking spaces and loading/unloading bay, and operation hours.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application form received on 26.3.2021 and clarification email dated 8.4.2021 (**Appendix I**)
  - (b) Further Information (FI) received on 6.5.2021 and 7.5.2021 providing responses to departmental comments with revised layout plan \* (**Appendix Ia**)
  - (c) FI received on 10.5.2021 clarifying the location of vehicle ingress/egress with revised layout plan \* (**Appendix Ib**)

Remark: \* *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 **Appendices I to Ib**. The applicant states that approval of the last planning application (No. A/YL-NTM/367) for temporary fish farming will expire on 18.5.2021. The renewal application is to facilitate the continuous operation of the fish farm for the production of fish for the local market. Fish deliveries from the fish farm are normally made three or four times per week by a goods van. Occasionally, a 5.5-tonne goods vehicle from the Fish Marketing Organisation will visit the farm for collection of fishes. It only occurs once every two to three months.

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

The applicant is not the “current land owner” of the private land within the Site and 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 the 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 Guideline**

The Town Planning Board Guidelines (TPB PG-No. 34C) for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ is relevant to this application. The relevant assessment criteria are summarised below:

- (a) whether there has been any material change in planning circumstance since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable;
- (e) any other relevant considerations; and
- (f) the approval period for renewal should not be longer than the original validity period of the temporary approval.

**5. Background**

The Site has been zoned “CDA” since the draft Ngau Tam Mei OZP No. S/YL-NTM/1 which was gazetted on 24.6.1994. The Site is not subject to active planning enforcement action.

**6. Previous Applications**

- 6.1 The Site is involved in 6 previous applications (No. A/YL-NTM/147, 223, 244, 277, 318 and 367) (**Plan A-1b**). The first 2 applications (No. A/YL-NTM/147 and 223) for temporary open storage and residential development were rejected, while the remaining 4 applications (No. A/YL-NTM/244, 277, 318 and 367) for the same

fish farming use as the current application were approved.

- 6.2 The rejected application (No. A/YL-NTM/147 and 223) were submitted by two different applicants covering a much larger site. Application No. A/YL-NTM/147 for proposed temporary open storage of construction materials for 3 years was rejected in 2003 mainly on the grounds that the proposed development was not in line with the planning intention of “CDA” zone; not compatible with the rural character of the area; insufficient information in the submission to demonstrate that the proposed development would not have any adverse impacts on the surrounding areas; and would set an undesirable precedent for similar applications in the surrounding area. Application No. A/YL-NTM/223 for proposed comprehensive low density residential development was rejected in 2009 mainly on the grounds that there was no strong planning justification for the increase in plot ratio; and insufficient information in the submission to address the environmental issue and the management and maintenance issues of the tree planting.
- 6.3 Applications No. A/YL-NTM/244, 277, 318 and 367 were submitted by another applicant<sup>2</sup> for the same use as the current application, which were approved by the Committee between 2009 and 2018 mainly on considerations that the development would not frustrate the long term planning intention of the “CDA” zone; not incompatible with the surrounding land uses; and no adverse comments from relevant departments or their concerns could be addressed by imposing approval conditions. All approval conditions have been complied with. The last planning permission (No. A/YL-NTM/367) will lapse on 19.5.2021.
- 6.4 Details of the applications are summarised at **Appendix II**.

## **7. Similar Application**

There is no similar application for fish farming use within the subject “CDA” zone on the OZP.

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

### **8.1 The Site:**

- (a) is accessible via a local access off Ngau Tam Mei Road to its north; and
- (b) consists of pond with some temporary structures for fish farming and ancillary uses covered by valid planning permission (No. A/YL-NTM/367).

### **8.2 The surrounding areas have the following characteristics:**

- (a) to its north across Ngau Tam Mei Road is Tam Mei Barracks. To its northwest is a sewage treatment works;

---

<sup>2</sup> See footnote 1.

- (b) to its east are ponds, unused land, cultivated agricultural land and residential dwellings. To its southeast are some temporary structure for storage, vacant land and orchard;
- (c) to its west is cultivated agricultural land;
- (d) to its south are storages, cultivated agricultural land and pond. To its further south is Ngau Tam Mei Drainage Channel.

## **9. Planning Intention**

The planning intention of “CDA” zone is for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

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

10.1 The following Government departments 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, LandsD (DLO/YL, LandsD):

- (a) The Site comprises GL and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The GL of the Site is covered by a Short Term Tenancy (STT) No. 2865 for the purpose of “Temporary Fish Farming”.
- (c) The private land Lot No. 956 in D.D.104 is covered by Short Term Waiver (STW) No. 4216 to permit structures for the purpose of “Temporary Fish Farming”.
- (d) Should planning approval be given to the subject application, the STT/STW holders will need to immediately apply to his office for modification of the STT/STW conditions where appropriate. Moreover, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularise any irregularity on the Site, if any. Besides, given the applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole

discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

### **Traffic**

#### 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The Site is connected to Ngau Tam Mei Road via a section of local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) All vehicles of 7m or above are currently prohibited to enter Ngau Tam Mei Road.
- (c) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

#### 10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site from Ngau Tam Mei Road should be approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Ngau Tam Mei Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

#### 10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, HyD (CE/RD 2-2, RDO, HyD):

- (a) The Site falls within the area of influence (AOI) of the proposed Northern Link (NOL), which is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within AOI may be required to be vacated at the time for the construction of NOL and subject to nuisance, such as noise and vibration of the proposed NOL.
- (b) He has no comment on the application from the development point of view of NOL, provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of NOL.

- (c) The applicant should note that the NOL alignment and its AOI may be subject to further amendments.

### **Environment**

#### 10.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) The applicant is advised to follow the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by DEP.
- (b) According to record, there was one noise complaint related to the Site in the past 3 years, but it was a non-substantiated complaint.

### **Landscape**

#### 10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) It is noted that there is no significant change to the surrounding landscape setting since the last application was approved. Noting that there is no substantial change in the layout of the applied use and further significant impact on existing landscape resources within the Site arising from the continuous use is not anticipated, he has no objection to the application from landscape planning perspective.
- (b) Should approval to the renewal application be given by the Board, all existing trees within the Site should be maintained in good condition at all times during the approval period.
- (c) The applicant is reminded that approval of the application does not imply approval of tree works such as pruning, transplanting and felling. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal where appropriate.

### **Drainage**

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

- (a) He has no objection in principle to the development.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant of the development (i) to maintain the drainage facilities implemented under Application No. A/YL-NTM/367; and (ii) to submit records of the existing drainage

facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board.

### **Fish Culture**

#### **10.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

He has no objection on the planning application from fish culture perspective as the Site has been formed and in operation for similar use for a number of years.

### **Fire Safety**

#### **10.1.9 Comments of the Director of Fire Services (D of FS):**

- (a) He has no objection in principle to the application subject to fire services installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should also be advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

#### **10.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):**

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing

enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.

- (c) His detailed comments are at **Appendix III**.

### **Water Supply**

10.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The applicant shall bear the cost of any necessary diversion works affected by the development.
- (c) In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5 metres from the centerline of the water mains shall be provided to WSD. No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes.
- (d) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorise.
- (e) The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

10.2 The following Government departments have no objection to or no comment on the application:

- (a) Commissioner of Police;
- (b) Project Manager (West), Civil Engineering and Development Department (CEDD);
- (c) Head of Geotechnical Engineering Office, CEDD; and
- (d) District Officer (Yuen Long), Home Affairs Department.

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

On 9.4.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 30.4.2021, no public comment was received.

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

- 12.1 The application is for renewal of the planning permission which will expire on 18.5.2021 for temporary fish farming use for a period of 3 years at the Site zoned “CDA”. The planning intention of the “CDA” zone is for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints. Although the fish farming use under application is not in line with the planning intention of the “CDA” zone, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “CDA” zone as there is no development proposal for the “CDA” zone.
- 12.2 The subject fish farm is considered not incompatible with the surrounding areas comprising mainly cultivated agricultural land, orchard, ponds, unused land and vacant land (**Plan A-2**).
- 12.3 The applied use would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned Government departments including DAFC, C for T, CE/MN of DSD, D of FS and CTP/UD&L of PlanD from fish culture, traffic, drainage, fire safety and landscape impacts perspectives. Should the application be approved, technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by imposing the approval conditions recommended in paragraphs 13.2 (b) to (h) below. Although there was one noise complaint relating to the Site received by DEP in the past 3 years, it was a non-substantiated complaint and DEP has no adverse comment on the current renewal application. No public comment was received during the statutory public inspection period of the current application. To minimise any possible environmental nuisance, approval condition restricting the operation hours is recommended in paragraph 13.2 (a) below. Besides, the applicant will be advised to follow the relevant measures and requirements in the latest COP to mitigate potential environmental impacts on the surrounding areas.
- 12.4 Approval for fish farming use at the Site has been granted since 2009 (Applications No. A/YL-NTM/244, 277, 318 and 367). According to the applicant, the renewal application is to facilitate the continuous operation of the fish farm for production of fish for the local market. The application is in line with TPB PG-No.34C in that approval conditions of the last permission (No. A/YL-NTM/367) have all been complied with. The current proposal is basically the same as the last application on a reduced site as stated in paragraph 1.4 above. There has been no major change in planning circumstances since the last approval, and approval of the renewal application would unlikely result in adverse planning implications.

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

- 13.1 Based on the assessment made in paragraph 12, the Planning Department

considers that the applied temporary fish farming could be tolerated for a period of 3 years.

- 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 19.5.2021 to 18.5.2024. 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) only private cars and light goods vehicles not exceeding 5.5 tonnes as defined in the Road Traffic Ordinance are allowed to park on the Site at any time during the planning approval period;
- (d) the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a 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 Town Planning Board by 19.8.2021;
- (g) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.11.2021;
- (h) in relation to (g) above, the implementation of fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.2.2022;
- (i) if any of the above planning conditions (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; and
- (j) if any of the above planning conditions (f), (g) or (h) 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.

*[The above planning conditions are same as those under the previous permission (No. A/YL-NTM/367).]*

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

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

the development is not in line with the planning intention of the "CDA" zone, which is primarily for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. There is no strong planning justification in the submission for a departure from such 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.

#### **15. Attachments**

<b>Appendix I</b>	Application form received on 26.3.2021
<b>Appendix Ia</b>	FI received on 6.5.2021 and 7.5.2021
<b>Appendix Ib</b>	FI received on 10.5.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Comparison of Layout of Previous and Current Scheme
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Application Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2021**