

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

APPLICATION NO. A/YL-PN/65

- Applicant** : Mr. MAK Por
- Site** : Lots 80 (Part) and 81 (Part) in D.D.135 and adjoining Government Land (GL), Pak Nai, Yuen Long, New Territories
- Site Area** : 5,410 m² (including GL of about 100m² or 1.8%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Place of Recreation, Sports or Culture (Fishing Ground) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary place of recreation, sports or culture (fishing ground) for a period of 3 years at the application site (the Site). The Site falls within an area zoned “Agriculture” (“AGR”) on the Approved Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/9 (**Plan A-1a**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is currently occupied for the applied use with valid planning permission under application No. A/YL-PN/54.
- 1.2 The Site is involved in 6 previous applications for the same fishing ground use. The last application (No. A/YL-PN/54) for the same use submitted by the same applicant was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 20.7.2018 for a period of 3 years until 20.7.2021 (**Plan A-1b**). All the time-limited approval conditions have been complied with. Details of the previous applications are summarized at paragraph 6 below and at **Appendix III**.

- 1.3 The layout plan (**Drawing A-1**) and development parameters of the last approved application (No. A/YL-PN/54) and the current application are the same as detailed in the following table:

Major Development Parameters	Last Approved Application (A/YL-PN/54) (a)	Current Application (A/YL-PN/65) (b)
Site Area	about 5,410 m ² (including GL of about 100m ²)	
Applied Use	Temporary Place of Recreation, Sports or Culture (Fishing Ground) for a Period of 3 Years	
Total Floor Area	about 40.1 m ²	
No. of Structures	1 (height of 2.1m, 1 storey for rain shelter use)	
No. of Parking Spaces	Nil	
Operation Hours	7:00 a.m. to 9:00 p.m. daily	

- 1.4 According to the applicant, the estimated number of visitors is about 4 to 8 on weekdays; and 10 to 20 on Saturdays and public holidays. All visitors could reach the fishing ground by Green Minibus Route No. 33 to Ha Pak Nai.

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

- (a) Application Form and attachments received on 6.3.2021 (**Appendix I**)
- (b) Further Information (FI) received on 25.3.2021 (**Appendix Ia**) responding to Director of Fire Services's comments

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**). They can be summarized as follows:

- (a) In face of the persistent keen competition in fish farming industry, income has been declining. It is difficult to maintain the livelihood and afford basic expenses of the family.
- (b) The applicant wishes to transform his business to operate fishing ground and to be self-reliant, so as to afford the basic expenses of the family members and make a living.

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 obtaining consent of the current land owners. Detailed

information would be deposited at the meeting for Members' inspection. For the GL portion, TPB PG-No. 31A is not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves 6 previous applications (No. A/YL-PN/8, 20, 32, 37, 43 and 54) for temporary fishing ground. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-PN/8 for fishing ground and barbecue spot, and Applications No. A/YL-PN/20, 32, 37, 43 and 54 for fishing ground use submitted by the same applicant as the current application were approved with conditions by the Committee/Board on review between 2004 and 2018 for a period of 3 years each mainly on the considerations of not jeopardizing the long-term planning intention of the "AGR" zone, not incompatible with the surrounding land uses, no adverse departmental comments, and previous approval at the Site. All the approval conditions under the previous approved applications had been complied with, except for the planning permission of application No. A/YL-PN/32 which was revoked on 7.7.2012 due to non-compliance with approval conditions on submission and implementation of landscape and tree preservation proposal.
- 6.3 Compared with the last approved application, the current application was submitted by the same applicant for the same use on the same site with same development parameters.

7. Similar Application

There is no similar application within the same "AGR" zone on the OZP.

8. The Site and Its Surrounding Areas (Plan A-2 to Plan A-4)

- 8.1 The Site is:
 - (a) occupied mainly by a fish pond and is currently used as a recreational fishing ground with valid planning permission; and
 - (b) accessible via a local track leading to Nim Wan Road.
- 8.2 The surrounding areas have the following characteristics:

- (a) to the north across Nim Wan Road are a public toilet, unused land, and an education centre which is a suspected unauthorized development (UD);
- (b) to the east are a pond, an orchard, some residential dwellings, graves, unused land and a warehouse which is a suspected UD;
- (c) to the south are a residential dwelling, unused land, and a warehouse which is a suspected UD; and
- (d) to the west are some ponds for recreational fishing ground which are suspected UD.

9. Planning Intention

The “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lots and GL. The Old Schedule Agricultural Lots are 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 private land of Lot No. 81 in D.D. 135 is covered by Short Term Waiver (STW) No. 3673 to permit structures for the purpose of temporary place of recreation, sports or culture (fishing ground).
- (c) No permission is given for occupation of the GL included in the Site (about 100m² subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.
- (d) Should planning approval be given to the application, the STW holders will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot without STW will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) 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(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) The Site can be accessed to Nim Wan Road which is a single track road.
- (c) There is no parking spaces within the Site and the number of visitors would not exceed 20 persons per day. The applicant shall remind visitors to arrive the Site by using public transport services.

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

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Nim Wan Road.

Nature Conservation

10.1.4 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

He has no in-principle objection to the application provided that there is no pond filling at the Site. The applicant should be advised to adopt appropriate measures to prevent any disturbance or environmental hygiene problems that may affect the nearby fish ponds and fish culture activities during the operation of the fishing ground.

Environment

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

- (a) He has no adverse comment on the application.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites".

- (c) There is no environmental complaint pertaining to the Site in the past three years.

Landscape

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

- (a) The Site, located to the east of Nim Wan Road, falls within an area zoned “AGR” on the approved Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/9. An area zoned “Coastal Protection Area” is observed across Nim Wan Road. The Site is subject to planning application No. A/YL-PN/54 for temporary fishing ground use which he had no objection to from landscape planning perspective. The same applicant seeks planning permission for the same use on the same site for a period of 3 years.
- (b) With reference to site visit conducted on 18.3.2021 and aerial photo of 2020, it is observed that the Site is currently operated as a fishing ground with trees generally along the site boundary within the Site. The Site is situated in an area of coastal plains landscape character. Significant change to the landscape character arising from the continued use is not envisaged. Hence, he has no objection to the application from landscape perspective.
- (c) In consideration that the landscape works have been implemented under the previous application and the trees are observed to be in good condition, it is considered adequate to impose a planning condition to maintain the existing trees in good condition for the duration of the planning approval period should the application be approved by the Committee.
- (d) The applicant should be reminded of the detailed comments at **Appendix IV**.

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 proposed application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities on site and to submit condition record of those drainage facilities to the satisfaction of his office.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service 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 note his detailed comments on the submission of FSIs proposal at **Appendix IV**.

Electricity Supply

10.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

The applicant should be reminded of the detailed comments at **Appendix IV**.

District Officer's Comments

10.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application and has no comment from departmental point of view.

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

- (a) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD);
- (b) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (c) Director of Leisure, Cultural and Services (DLCS);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Antiquities and Monuments Office, Development Bureau (AMO, DevB); and
- (f) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 16.3.2021, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission under application No. A/YL-PN/54 for temporary place of recreation, sports or culture (fishing ground) for a period of 3 years at the Site zoned “AGR” on the OZP which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This application is to continue using an existing fish pond for recreational fishing ground. It would not cause significant change to the character of the existing fish pond. No pond filling is proposed under this application. DAFC has no in-principle objection to the application and advises the applicant to adopt appropriate measures to prevent any disturbance and environmental hygiene problems that may affect the nearby fish ponds and fish culture activities during the operation of the fishing ground. CTP/UD&L, PlanD has no objection as significant change to the landscape character arising from the continued use is not anticipated. As such, approving the planning application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone.
- 12.2 The Site is in an area of coastal plain landscape character dominated by fish ponds, orchards and tree groups. The applied use is considered not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with the TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-PN/54, the applicant has complied with all the approval conditions, and the 3-year approval period sought is of the same time frame as the previous approval.
- 12.4 Relevant government departments, including C for T, DAFC, DEP, CTP/UD&L of PlanD, CE/MD of DSD and D of FS have no objection to or no adverse comment on the application. The applied use would unlikely cause significant adverse traffic, ecological, environmental, landscape, drainage and fire safety impacts to the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To minimize any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority.
- 12.5 There are 6 previous approved applications covering the Site for the same use since 2004. Approval of the current application is in line with previous decisions of the Committee.
- 12.6 No public comment has been received during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the temporary place of recreation, sports or culture (fishing ground) could be tolerated for a further 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 21.7.2021 to **20.7.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 9:00 p.m. and 7:00 a.m. is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (b) the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (c) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a condition record of the existing drainage facilities 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 21.10.2021**;
- (e) the submission of a 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 21.1.2022**;
- (f) in relation to (e) above, the implementation of the 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 21.4.2022**;
- (g) if any of the above planning conditions (a), (b) or (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
- (h) if any of the above planning conditions (d), (e) or (f) 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.

[Approval conditions are the same as those under the permission for application No. A/YL-PN/54, except condition (b) is updated and previous condition (i) on the reinstatement of the Site is deleted to accord with the department's latest requirement.]

Advisory Clauses

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

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

the applied use is not in line with the planning intention of the "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. 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 and attachments received on 8.3.2021
Appendix Ia	FI received on 25.3.2021
Appendix II	Extract of Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)
Appendix III	Previous applications covering the application site
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2021**