

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

**APPLICATION NO. A/YL-PN/66**

<b><u>Applicant</u></b>	: Mr. NG Shu
<b><u>Site</u></b>	: Lots 74(Part), 75, 76(Part) and 77 in D.D.135 and Adjoining Government Land (GL), Pak Nai, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 14,006 m <sup>2</sup> (including GL of about 680m <sup>2</sup> or 4.9%)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9
<b><u>Zonings</u></b>	: “Coastal Protection Area” (“CPA”) (about 98.4%) and area shown as ‘Road’ (about 1.6%)
<b><u>Application</u></b>	: Temporary Place of Recreation, Sports or Culture (Fishing Ground) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary place of recreation, sports or culture (fishing ground) for a period of 3 years. The Site mainly falls within an area zoned “CPA” with a minor portion falling within an area shown as ‘Road’ on the OZP (**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 consists of three fish ponds and is currently used for the applied use without valid planning permission (**Plans A-2, A-3, A-4a and 4b**).
- 1.2 The Site is the subject of 5 previous applications for the same fishing ground use. The last application (No. A/YL-PN/52) 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 20.4.2018 for a period of 3 years (**Plan A-1b**). All the time-limited approval conditions have been complied with. The planning permission lapsed on 21.4.2021.

- 1.3 The layout plan (**Drawing A-1**) and development parameters of the last approved application (No. A/YL-PN/52) and the current application are similar as detailed in the following table:

<b>Major Development Parameters</b>	<b>Approved Application No. A/YL-PN/52 (a)</b>	<b>Current Application No. A/YL-PN/66 (b)</b>	<b>Difference (b)-(a)</b>
Development/use	Temporary recreation use (fishing ground) for a period of 3 years	Temporary place of recreation, sports or culture (fishing ground) for a period of 3 years	No change
Site area (m <sup>2</sup> )	About 14,842m <sup>2</sup> (including GL of about 394m <sup>2</sup> )	About 14,006m <sup>2</sup> (including GL of about 278m <sup>2</sup> )	- 836 m <sup>2</sup>
No. of structures	4 • 1 shelter for storage of fishing tools • 1 shelter for resting • 1 temporary structure for resting and storage of fishing tools • 1 temporary electricity room	3 • 1 shelter for storage of fishing tools • 1 shelter for resting • 1 temporary structure for resting and storage of fishing tools	-1
Maximum floor area (m <sup>2</sup> )	Not more than 279m <sup>2</sup>	Not more than 278m <sup>2</sup>	-1 m <sup>2</sup>
Maximum height of structures	1 storey, 1.5 to 3.5m	1 storey, 1.5 to 3.5m	No change
Vehicle parking spaces	6 for private cars 2 for light goods vehicle	4 for private cars 3 for light goods vehicle	-2 for private cars +1 for light goods vehicle
Operation hours	9:00 a.m. to 9:00 p.m. daily	9:00 a.m. to 9:00 p.m. daily	No change

- 1.4 According to the applicant, the estimated number of visitors is about 10 per day from Mondays to Saturdays; and 30 to 40 on Sundays. It is expected that about 1 to 3 private cars will enter the Site from Mondays to Saturdays while about 2 to 6 private cars will enter the Site on Sundays. The other visitors could reach the fishing ground by taxi or Green Minibus Route No. 33 to Ha Pak Nai.
- 1.5 In support of the application, the applicant has submitted the Application Form and attachments which were received on 13.5.2021 (**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 in **Appendix I**. They can be summarized as follows:

- (a) The applied use will not affect the surrounding environment. There will not be any land excavation or pond filling works.
- (b) The applicant will perform annual maintenance for the fire service installations and drainage facilities.
- (c) The applicant has continued improving the environment of the fishing ground to provide a comfortable, quiet and nice environment for the visitors.

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

The applicant is not a “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 registered post to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, TPB PG-No. 31A is not applicable.

### **4. Background**

The Site is currently not subject to planning enforcement action.

### **5. Previous Applications**

- 5.1 The Site involves 5 previous applications (No. A/YL-PN/18, 34, 40, 42 and 52) for temporary fishing ground. Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 All five previous applications for the same use by different / the same applicant on almost the same Site were approved with conditions by the Committee between 2008 and 2018 for a period of 3 years each on the grounds that passive recreational facilities in “CPA” zone could be favourably considered; conversion of an existing fish pond to fishing ground would not undermine the long-term planning intention; and the applied use would unlikely cause significant adverse environmental and drainage impacts to the surrounding areas. Except application No. A/YL-PN/40 which was revoked in 2015 due to non-compliance of approval condition on fire safety aspect, all the approval conditions of other applications were complied with.
- 5.3 Compared with the last approved application, the current application was submitted by the same applicant for the same use on a slightly smaller site (- 836m<sup>2</sup>) with similar development parameters.

### **6. Similar Applications**

- 6.1 There are 2 similar applications (No. A/YL-PN/9 and 21) for a same site within the same “CPA” zone on the OZP. Details of these applications are summarized at **Appendix III** and the locations are shown on **Plan A-1a**.
- 6.2 Application No. A/YL-PN/9 for temporary fishing ground and barbecue spot for a period of 3 years was approved by the Board on review in 2004 on sympathetic

considerations that it would unlikely cause significant adverse impacts. As allowing the barbecue activity in the area was not appropriate, an approval condition prohibiting barbecue activity was imposed. Application No. A/YL-PN/21 for temporary fishing ground was approved by the Committee with conditions for a period of 3 years in 2008 on the grounds that conversion of existing fish ponds to fishing ground would not undermine the long-term planning intention of the “CPA” zone.

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

### **7.1 The Site:**

- (a) comprises three fish ponds currently used for the applied use without valid planning permission; and
- (b) is accessible to Nim Wan Road (**Plan A-2**);

### **7.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):**

- (a) to the east across Nim Wan Road is a stream, a fish pond used as fishing ground with valid planning permission, scrubland, orchard, cultivated agricultural land, some residential structures and a warehouse which is a suspected unauthorized development (UD);
- (b) to the south are scrubland, some residential structures, an open storage yard for containers which is a suspected UD. To the further southwest is a pond;
- (c) to the west is wetland of the coastal area of Deep Bay; and
- (d) to the north is a residential structure, a stream and an education centre and a religious institution which are suspected UDs.

## **8. Planning Intention**

The “CPA” zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or the development is an essential infrastructure project with overriding public interest may be permitted.

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

- ### **9.1**
- The following government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lots and GL. The 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 77 in D.D.135 is covered by a Short Term Waiver (STW) No. 3691 to permit structures for the purpose of 'recreation use (fishing ground)'.
- (c) Should planning approval be given to the application, the STW holder will need to apply to his office for modification of the STW conditions where appropriate and 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 to regularize any irregularities on the 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 the 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 the LandsD.

### **Traffic**

#### **9.1.2 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) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.

#### **9.1.3 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.

### **Environment**

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

- (a) He has no adverse comment on the application.
- (b) The applicant is advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the DEP to minimize potential environmental nuisance to the surrounding area.
- (c) No environmental complaint related to the Site was received in the past 3 years.

### **Natural Conservation and Fisheries**

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

He has no strong view on the application. The applicant should be reminded of the detailed comments at **Appendix V**.

### **Landscape**

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

- (a) With reference to the site visit by his office on 25.5.2021 and aerial photo of 2020, it is observed that the Site comprises three fish ponds with existing trees along the site boundary. The applied use is already in operation. The Site is situated in an area of rural coastal plains landscape character predominated by fish ponds and wooded areas. The applied use is not incompatible with the surrounding environment. Significant change to the landscape character arising from the application is not anticipated. Hence, he has no objection to the application from landscape planning perspective.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

### **Drainage**

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

He has no objection in principle to the application from drainage point of view. The applicant should be reminded of the detailed comments at **Appendix V**.

### **Fire Safety**

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

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

### **Building Matters**

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

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

### **Others**

#### 9.1.10 Comments of the Antiquities and Monuments Office, Development Bureau (AMO, DevB):

He has no in-principle objection to the application from the built heritage and archaeological conservation perspectives. The applicant should be reminded of the detailed comments at **Appendix V**.

### **District Officer's Comments**

#### 9.1.11 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 he has no comment on the application.

#### 9.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Land Works, CEDD (CE/LW, CEDD); and
- (d) Commissioner of Police (C of P).

## **10. Public Comment Received During the Statutory Publication Period**

During the statutory public inspection period, one public comment (**Appendix IV**) was received from an individual commenting that one of the ponds at the Site has been dried out since 2018.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary place of recreation, sports or culture (fishing ground) for a period of 3 years at the Site mainly zoned “CPA” on the OZP which is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. The development is not entirely in line with the planning intention of the “CPA” zone. However, the existing fish ponds at the Site will not be adversely affected by the applied use (fishing ground) and there is no significant change in character of the existing fish ponds. The last permission for the same use under application No. A/YL-PN/52 was valid up to 20.4.2021. As the previous permission lapsed, the applicant submitted the current application afresh. DAFC has no objection to the application from nature conservation and fisheries points of view. CTP/UD&L of PlanD has no objection to the application as significant change to the landscape character is not envisaged. As such, approving the application for passive recreational use on a temporary basis would not undermine the long-term planning intention of the “CPA” zone.
- 11.2 The applied use is not incompatible with the fish ponds and wooded areas in the surrounding areas.
- 11.3 The applied use would not cause significant adverse traffic, environmental and drainage impacts on the surrounding areas. Relevant Government departments including C for T, DEP and CE/MN of DSD have no adverse comment on/objection to the planning application. There is no environmental complaint pertaining to the Site received in the past 3 years. To address the technical concerns of concerned Government departments and to minimize any potential nuisance, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority.
- 11.4 There are 5 previous approved applications (No. A/YL-PN/18, 34, 40, 42 and 52) for the same use submitted by different/the same applicant on almost the same site. All time-specific approval conditions of these approved applications were complied with except application No. A/YL-PN/40 which was revoked in 2015 due to non-compliance of approval condition on fire safety aspect. Within the same “CPA” zone, there are also 2 similar approved applications (No. A/YL-PN/9 and 21). Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There is one public comment received commenting on the application as summarized in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department considers that the temporary place of recreation, sports or culture (fishing ground) could be tolerated for a period of 3 years.



- 12.2 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 **9.7.2024**. 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 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 roads at any time during the planning approval period;
- (c) the submission of a 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 **9.1.2022**;
- (d) in relation to (c) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.4.2022**;
- (e) if any of the above planning conditions (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 conditions (c) or (d) is not complied with by the above 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 at **Appendix V**.

- 12.3 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 "CPA" which is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is a general presumption against development in this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.

- 13.3 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.

**14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 13.5.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2021**