

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

**APPLICATION NO. A/YL-PN/67**

- Applicant** : Ms. Kong Wai Heung
- Site** : Lot 93 (Part) in D.D.135, Sheung Pak Nai, Yuen Long, New Territories
- Site Area** : About 8,860 m<sup>2</sup>
- Lease** : New Grant Agricultural Lot held under Tai Po New Grant No. 2725
- Plan** : Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan (OZP)  
No. S/YL-PN/9
- Zoning** : “Coastal Protection Area” (“CPA”)
- Application** : 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 for temporary place of recreation, sports or culture (fishing ground) for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires 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 used for the applied use without valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible via a local track leading from Nim Wan Road (**Plans A-2 and A-3**). According to the applicant, the existing fish pond is used as the fishing ground. 3 private car parking spaces are provided. The operation hours are from 8:00 a.m. to 9:00 p.m. from Mondays to Sundays including public holidays. There are about 1 to 2 visitors on weekdays and about 15 to 20 during weekends and public holidays. The layout plan is at **Drawing A-1**.
- 1.3 The Site is involved in 4 previous applications (No. A/YL-PN/22, 36, 44 and 57) (details at paragraph 5 below).
- 1.4 In support of the application, the applicant submitted the Application Form with attachments received on 9.6.2022 (**Appendix I**).

**2. Justifications from the Applicant**

The justification put forth by the applicant in support of the application is detailed in the Application Form at **Appendix I** as summarised below:

The four previously approved applications (No. A/YL-PN/22, 36, 44 and 57) were all submitted by the applicant and there are no changes in the operation details.

**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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending registered mail to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is currently not subject to planning enforcement action.

**5. Previous Applications**

5.1 The Site is related to 4 previous applications (No. A/YL-PN/22, 36, 44 and 57) for the same use on almost the same site submitted by the same applicant. They were approved by the Committee between 2009 and 2019 on the considerations of not undermining the planning intention of the “CPA” zone; no significant adverse environmental, drainage and landscape impacts; and similar approved applications in the area. All approval conditions have been complied with under each application. Details of these previous applications are shown in **Appendix II** and their locations are shown on **Plan A-1**.

5.2 The last application (No. A/YL-PN/57) was approved with conditions by the Committee for a period of 3 years on 8.3.2019. The applicant has complied with all approval conditions. However, the planning permission lapsed on 8.3.2022. The layout of the current application is the same as the last planning approval.

**6. Similar Applications**

6.1 Within the same “CPA” zone, there are 4 similar applications for fishing ground use.

### Approved Applications

- 6.2 Applications No. A/YL-PN/50 and 62 were approved with conditions by the Committee on 8.9.2017 and 21.8.2020 respectively on the considerations that the development would not adversely affect the existing fish pond; temporary approval of the application for a period of three years would not frustrate the long term planning intention of the “CPA” zone; the development was not incompatible with the surrounding land uses; and approval of the application was in line with previous decisions of the Committee.

### Rejected Applications

- 6.3 Application No. A/YL-PN/48 involved illegal pond filling activities and was a “Destroy First, Build Later” case while Application No. A/YL-PN/53 involved construction of a new fish pond and 5 temporary structures. They were rejected by the Committee on 28.7.2017 and 18.5.2018 respectively on the grounds of not in line with the planning intention of the “CPA” zone; failure to demonstrate no adverse environmental, ecological, landscape and traffic impacts; and setting an undesirable precedent.
- 6.4 Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) currently used for the applied use without valid planning permission; and
  - (b) accessible via a local track leading from Nim Wan Road (**Plans A-2 and A-3**).
- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
- (a) to the immediate east and south-east are ponds; to the further east are some temporary structures;
  - (b) to the immediate south are vacant land and fallow agricultural land;
  - (c) to the immediate west is a pond; and
  - (d) to the immediate north is the coastal area of Deep Bay.

## **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**

Relevant government departments have been consulted and they 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 III and IV** respectively.

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

On 17.6.2022, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

**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 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 pond at the Site will not be affected by the applied use (fishing ground) and there is no significant change in character of the existing fish pond. The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from the nature conservation as well as the fisheries and agricultural points of view. As such, approval of the application for passive recreational use on a temporary basis would not frustrate the long-term planning intention of the “CPA” zoning.

11.2 The development is not entirely incompatible with the fish ponds in the immediate surrounding area.

11.3 The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no comment from the landscape planning perspective as no significant adverse impact within the Site arising from the development is anticipated. The development would not cause significant adverse traffic, environmental and drainage impacts on the surrounding areas. Relevant government departments including the Commissioner for Transport (C for T), Director of Environmental Protection (DEP) and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) have no adverse comment on or objection to the application.

11.4 The Site is the subject of 4 previous applications (No. A/YL-PN/22, 36, 44 and 57) for the same use submitted by the same applicant which were approved by the Committee with conditions between 2009 and 2019. Within the same “CPA” zone, there were 4 similar applications (No. A/YL-PN/48, 50, 53 and 62) of which two were approved and two were rejected. The two rejected applications were different from the current application in that they involved illegal pond filling activities or the construction of a new fish pond while the current application only involves using the existing fish pond. Approval of the current application is generally in line with the previous decisions of the Committee.

11.5 No public comment was received during the statutory public inspection period.

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

12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary place for 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 29.7.2025. The recommended advisory clauses attached at **Appendix IV** are suggested for Members’ reference.

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” zone 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. No strong planning justification has been provided 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 9.6.2022
<b>Appendix II</b>	Previous applications covering the Site and similar applications within the same “CPA” zone
<b>Appendix III</b>	Government departments’ general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout Plan
<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  
JULY 2022**